



# Public Comment

## SIGN IN SHEET

November 18, 2014

6:00 PM

# AGENDA ACTION ITEM

**AGENDA ACTION ITEMS:** Council will hear public comment during this portion of the meeting for Agenda Action Items on today's agenda only. Agenda Action Items are defined as Administrator Report Items, Ordinances, Resolutions, Proclamations, Action Items, advertised Old Business item, advertised New Business item and Recommendations from Committee ONLY. Combined the two Public Comment Sessions at this meeting are limited to a total of 40 minutes, 4 minutes per person.

Please be advised that citizens not utilizing their full four [4] minutes may not "donate" their remaining time to another speaker. As stated above, each speaker is restricted to a maximum of four [4] minutes.

**Citizens failing to PRINT or list the specific AGENDA ACTION ITEM will not be called upon to address Council during this portion of the meeting.**

	FULL NAME	AGENDA ACTION ITEM
1 ✓	Margaret J. Thompson	T.V. Unit 4
2 ✓	Juan Sebastian	Board - 27
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Everyone speaking before Council will be required to do so in a civil manner. Council will not tolerate personal attacks on individual council members, county staff or any person or group. Racial slurs will not be permitted. Council's number one priority is to conduct business for the citizens of this county. All citizens who wish to address Council and all Boards and Commission appointed by Council should do so in an appropriate manner.

# Oconee County Transit Implementation Plan

Oconee County Council Presentation

November 18, 2014



**URS**

# Overview

- Original Transit Feasibility Study completed in December 2008
- Subsequent study update conducted in 2013
- Goals of update
  - Re-engage public
  - Integrate 2010 Census data
  - Review current transit service



# Transit Feasibility Study Update Recommendations

- Form Transit Advisory Task Force Committee
- Perform an origin-destination study
- Implement transit service in phased approach:
  - Phase 1: Between Seneca and Walhalla
  - Phase II: Between Seneca and Westminster
- Identify funding
- Finalize service plan
- Finalize financial plan



# Transit Advisory Task Force Committee

- TATFC formed in 2013
  - Kickoff meeting: January 23, 2014
    - Committee initiated a Transit Implementation Plan
- TATFC Membership:
  - Oconee County
  - Outside organizations [SCDOT, CAT]
  - Each municipality
  - At Large Citizen Representatives



# Implementation Plan Elements

- Conduct meetings with Transit Advisory Task Force Committee to:
  - Develop & administer survey of key employers
  - Perform O & D Study
  - Develop a Service Implementation Plan
  - Determine capital equipment and facility requirements
  - Estimate operational, maintenance, and capital costs
  - Prepare Financial Plan



# Existing & Proposed Transit Service

Re-charge units at Medical Center and downtown Seneca

## SENECA AREA EXISTING AND POTENTIAL NEW TRANSIT SERVICE

### LEGEND

#### EXISTING SENECA ROUTES

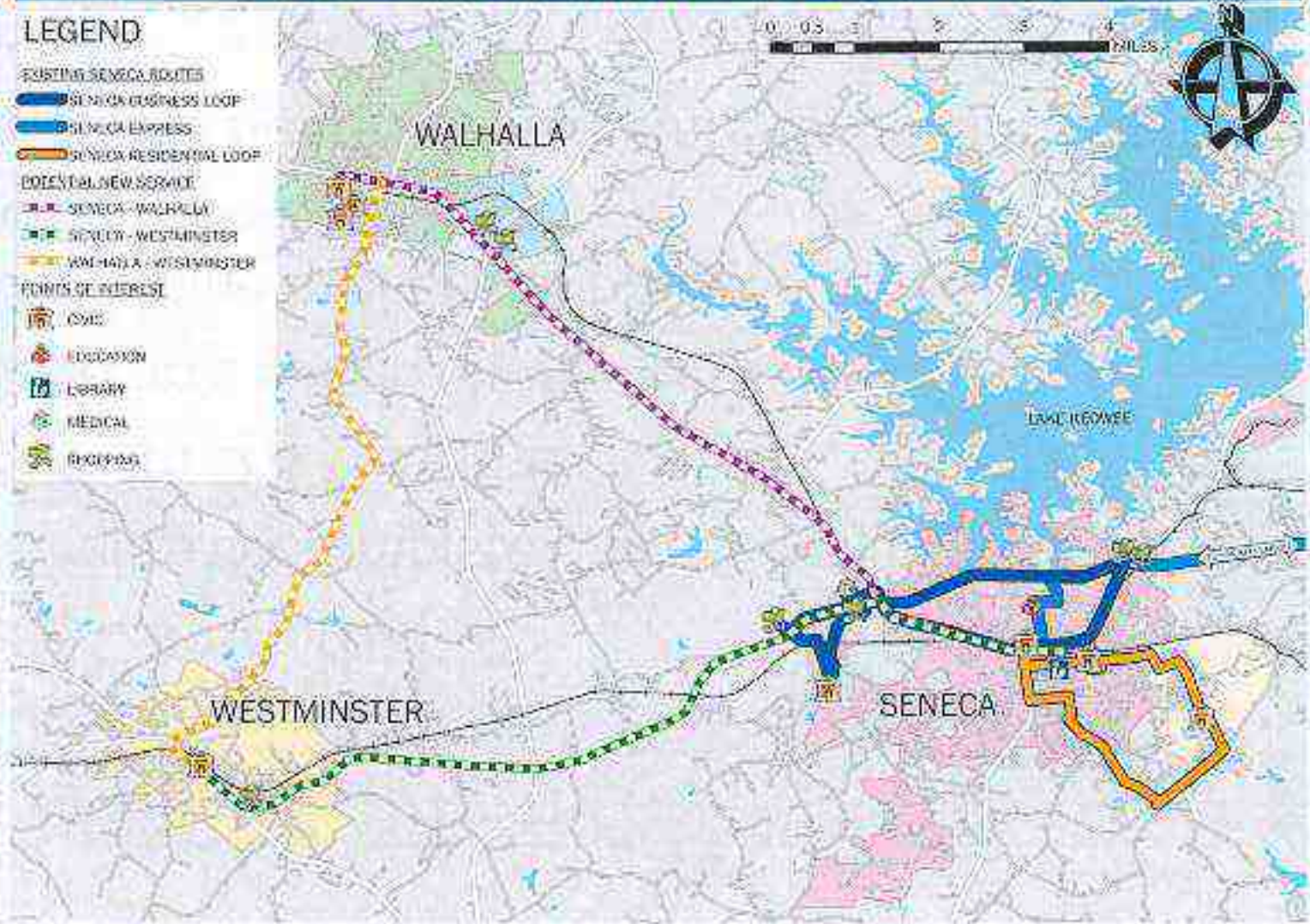
- SENECA BUSINESS LOOP
- SENECA EXPRESS
- SENECA RESIDENTIAL LOOP

#### POTENTIAL NEW SERVICE

- SENECA - WALHALLA
- SENECA - WESTMINSTER
- WALHALLA - WESTMINSTER

#### POINTS OF INTEREST

- GOV'T
- EDUCATION
- LIBRARY
- MEDICAL
- RECREATION



# O&M and Capital Cost Estimates

- Assumptions

- Operating 12 hours/day for 255 weekdays/year

- Ridership estimates:

- Low - 10 passengers per revenue hour;

- Moderate - 20 passengers per revenue hour;

- High - 30 passengers per revenue hour

- Note: Seneca service currently has ~ 35 passengers per revenue hour

- O&M costs based on \$65.32 operating cost per revenue hour based on current City of Seneca data





# O&M and Capital Cost Estimates

## Summary

Annual Service Statistics	Purple Route Only	Purple and Green Routes	Gold Route Only	Purple, Green, and Gold Routes
	60 Minute Frequency	60 Minute Frequency	30 Minute Frequency	
Peak Vehicles	1	2	1	3
Fleet Vehicles	2	3	1	4
Annual Vehicle Revenue Hours	3,060	6,120	3,060	9,180
Annual Vehicle Revenue Miles	67,300	125,400	91,800	217,200
O&M Cost <sup>1</sup>	\$199,879	\$399,758	\$199,879	\$599,638
Estimated Cost per Revenue Hour	\$65.32	\$65.32	\$65.32	\$65.32

1. O&M costs based on current City of Seneca data.



# O&M and Capital Cost Estimates

- Capital Requirements
  - One to four buses
    - Potential for up to 87% Federal capital contribution for ADA accessible buses
  - Approximately twelve shelter locations and fourteen bus stop locations
- Capital Cost Estimates
  - Dependent on type of bus, shelters and signage



# O&M and Capital Cost Estimates

## Estimated Transit Vehicle Capital Costs

Statistics	Small Bus/Van	Large Diesel Bus	Large Electric Bus
Estimated Transit Vehicle Cost	\$80,000	\$450,000	\$1,000,000
Estimated Vehicle Requirement	4	4	4
Total Fleet Cost	\$320,000	\$1,800,000	\$4,000,000
Federal Share (80%)	\$256,000	\$1,440,000	\$3,200,000
State Share (10%)	\$32,000	\$180,000	\$400,000
Local Share (10%)	\$32,000	\$180,000	\$400,000
Useful Life - Years <sup>1</sup>	4	12	12
Annual Local Accrual for Replacement <sup>2</sup>	\$8,000	\$13,322	\$29,604

1. Typical useful life for Small bus/van is 4 years. SCDOT allows replacement after 7 years. Additionally, there is a risk that if service is successful, vehicle capacity could be exceeded.

2. Small Bus Accrual: Assumed an initial balance of \$0.00 and an average annual rate of return of 2.5 percent and this return was adjusted for an expected inflation rate of 2.5 percent per year;

Large Diesel Bus and Large Electric Bus Accrual: Assumed an initial balance of \$0.00 and an average annual rate of return of 4.75 percent. This return was then adjusted for an expected inflation rate of 2.5 percent per year.

# O&M and Capital Cost Estimates

Capital Facility Improvement Cost Estimates			
Type	Units	Estimated Unit Cost	Total
Purple Route: Seneca to Walhalla			
Charging Station	1	\$300,000	\$300,000
Shelters	10	\$6,000	\$60,000
Bus Stops	9	\$250	\$2,250
			\$362,250
Annual Local Accrual*			\$2,814
Green Route: Seneca to Westminster			
Shelters	2	\$6,000	\$12,000
Bus Stops	5	\$250	\$1,250
			\$13,250
Annual Local Accrual*			\$103
Gold Route: Walhalla to Westminster			
Shelters	1	\$6,000	\$6,000
			\$6,000
Annual Local Accrual*			\$47
Grand Total			\$381,500
Federal Share (80%)			\$305,200
State Share (10%)			\$38,150
Local Share (10%)			\$38,150
Annual Local Accrual*			\$2,964

\* Assumes Ten Year Useful Life



## Financial Plan

- System expansion operating and maintenance costs based on actual Seneca costs
- System expansion would receive FTA Section 5311 operating assistance funds that would cover 50 percent of the transit service operations cost
- System may be eligible to receive an allocation of operating assistance from SCDOT at the current Seneca system level of twenty-five percent



# Financial Plan

- Oconee County, Walhalla, Westminster, and/or other jurisdictions would provide the local match of twenty-five percent of operating cost
- The system expansion would be fare-free
- Vehicle purchases would be funded through FTA discretionary grant programs



# O&M and Capital Cost Estimates

## Annual O&M and Capital Cost Estimate Summary

Annual Service Statistic Estimates	Purple and			
	Purple Route Only 60 Minute Frequency	Green Routes 60 Minute Frequency	Gold Route Only 30 Minute Frequency	Purple, Green, and Gold Routes
Peak Vehicles	1	2	1	3
Fleet Vehicles	2	3	1	4
Annual Vehicle Revenue Hours	3,060	6,120	3,060	9,180
Annual Vehicle Revenue Miles	67,300	125,400	91,800	217,200
Estimated Low Ridership <sup>1</sup>	30,600	61,200	30,600	91,800
Estimated Moderate Ridership	61,200	122,400	61,200	183,600
Estimated High Ridership	91,800	183,600	91,800	275,400
Total Operating and Maintenance Cost <sup>2</sup>	\$199,879	\$399,758	\$199,879	\$599,638
Federal Share - O&M (50%)	\$99,940	\$199,879	\$99,940	\$299,819
State Share - O&M (25%)	\$49,970	\$99,940	\$49,970	\$149,909
Local Share - O&M (25%)	\$49,970	\$99,940	\$49,970	\$149,909
Capital Facility Improvement Local Accrual	\$2,814	\$2,917	\$47	\$2,964
Capital Accrual Cost - Small Bus/Van	\$4,000	\$6,000	\$2,000	\$8,000
Capital Accrual Cost - Large Diesel Bus	\$6,660	\$9,991	\$3,330	\$13,322
Capital Accrual Cost - Large Electric Bus	\$14,802	\$22,203	\$7,401	\$29,604
Total Annual Local Cost - Small Bus/Van	\$56,784	\$108,857	\$52,016	\$160,873
Total Annual Local Cost - Large Diesel Bus	\$59,444	\$112,848	\$53,346	\$166,195
Total Annual Local Cost - Large Electric Bus	\$67,586	\$125,060	\$57,417	\$182,477

1. Low ridership is 10 pax/rev. hr.; Moderate is 20 pax/rev. hr.; High is 30 pax/rev. hr.
2. O&M costs based on current City of Seneca data



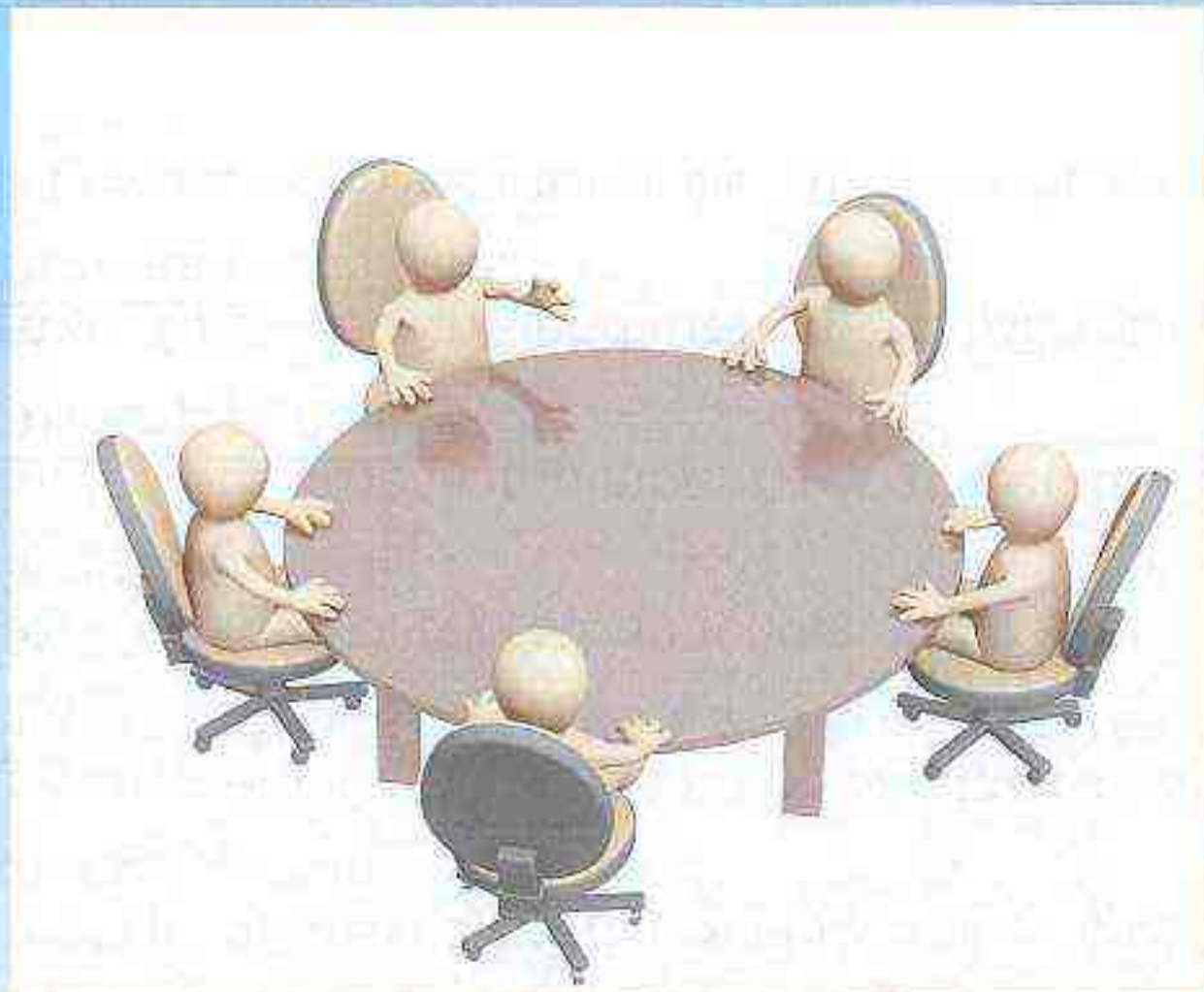
# Recommendations

- Governance - utilize the existing Seneca transit structure to govern the expanded system
- Phasing - implement the Purple Route and the Green Route, with implementation of the Gold Route in a future phase
- Vehicles - TATFC strongly recommended the large electric bus vehicle option
- Designated Bus Stops - implement designated bus stops and bus stop signage
- Passenger Fare - recommendation of the TATFC that the system remain fare free.
  - It was the recommendation of the TATFC that the system remain fare free.





# Discussion



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# Oconee County Transit Implementation Plan



October 2014

Final Report

Prepared by

**URS**

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## Section 1 – Introduction

In 2008, URS Corporation performed an Oconee County Transit Feasibility Study and subsequent study update for the City of Seneca in 2013. The intent of the study was to determine the potential for an expansion of the current transit system beyond Seneca and to help the County gauge the short and long-term benefits and needs for an expanded system. A key study update recommendation was to implement new service between Seneca/Walhalla and Seneca/Westminster. The County was interested in assessing the feasibility of extended transit service, between the cities of Seneca, Walhalla, West Union and Westminster and also additional coordination with the existing service operated by Clemson Area Transit (CAT).

Another key recommendation of the Transit Feasibility Study Update was for Oconee County to form a Transit Advisory Task Force Committee (TATFC) to initiate and guide the implementation process for additional transit and mobility options within Oconee County. The County proceeded to move forward to further develop the potential extended service(s) and a Task Force Committee was formed in 2013 with membership consisting of representatives from Oconee County and each of the municipalities that expressed an interest in being included in expanded transit service. During the kickoff meeting on January 23, 2014, the Committee resolved to initiate a Transit Implementation Plan to provide more definitive information for proceeding towards additional transit services. The following major tasks for the implementation plan were identified and included:

- Task 1: Stakeholder and Community Outreach Activities
- Task 2: Key Area Employer Survey
- Task 3: Service Implementation Plan Development
- Task 4: Operational, maintenance, and capital cost estimates
- Task 5: Capital equipment and facility requirements
- Task 6: Financial Plan
- Task 7: Recommendations

Each of these tasks, and the associated subtasks, were very important to the overall success of the Transit Implementation Plan process.



## Section 2 – Stakeholder and Community Outreach Activities

A strong program is essential for understanding community needs and issues. Elements of the Transit Implementation Plan’s outreach effort included an online employer survey and the development of a Transit Advisory Task Force Committee (TATFC). The TATFC facilitated coordination with local governments and organizations, including CAT and City of Seneca planning staff. Table 2-1 summarizes major outreach activities conducted and their purpose.

Table 2-1: Transit Implementation Plan Stakeholder and Outreach Activities

Activity	Date	Purpose
Transit Advisory Task Force Committee (TATFC)	January 23, 2014	Present findings of Transit Feasibility Study Update; discuss implementation considerations; URS tasked by Committee to develop scope for conducting Transit Implementation Plan
Transit Advisory Task Force Committee (TATFC)	February 27, 2014	Introduce study, present transit implementation tasks for consideration, and solicit study guidance and input
Online Survey	March 2014 through June 2014	Solicit input from area employers about transit opportunities and needs in Oconee County
Seneca Transit Service Meeting and Field Work	March 25, 2014	Gather field information for developing potential route service extensions
Transit Advisory Task Force Committee (TATFC)	July 24, 2014	Present plan development activities and recommendations
Transit Advisory Task Force Committee (TATFC)	September 25, 2014	Present Final Draft Transit Implementation Plan Report and recommendations for adoption by TATFC

## Section 3 – Key Employer Survey

From March to June 2014 an Employer Survey was administered to key employers in Oconee County to ascertain their attitudes about public transit. The Greater Oconee County Chamber of Commerce sent an electronic link for the survey to their membership in an e-newsletter. URS then conducted a follow-up telephone interaction with the employers to encourage them to participate in the employer survey. Even with this additional effort, the response to the survey was very limited and low interest was shown by employers.

The employers that did respond indicated that they offer adequate parking, their employees currently use personal vehicles to/from work, and they felt if transit was available ten percent or less of their workforce would utilize it. However, one respondent in Seneca indicated some of their employees commute to work on CAT buses. The survey questions are presented in Appendix A.

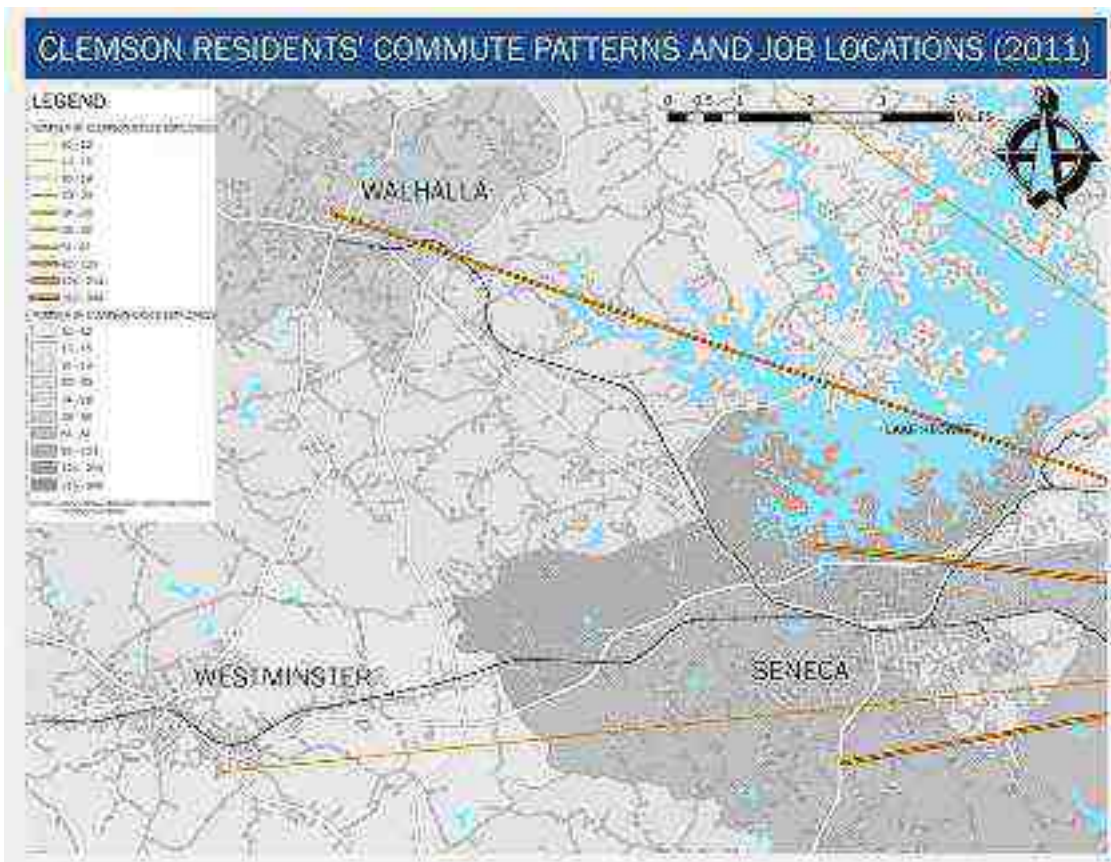


## Section 4 – Service Implementation Plan Development

Reviewing and understanding travel characteristics is an important component of a transit planning study. The U.S. Census Bureau collects data on commute travel, which is the most predictable type of trip conducted. The Census reports on a variety of commuter travel characteristics, including how commuters get to work, how long it takes, and where they are working. The most recent US Census Bureau’s Longitudinal Employer-Household Dynamics (LEHD) Origin-Destination Employment Statistics (LODES) data was analyzed to determine the census tract location of Oconee employees residing in the communities of Clemson, Seneca, Walhalla, and Westminster. The analysis of the data indicates where the residents of these communities travel to reach their employment locations. The following figures depict the geographic patterns of jobs by employment locations and residential locations as well as the connections between the two locations. The travel patterns are represented by lines connecting the center of the residential census tract to the center of the employment census tract. Line thickness is proportionate to the number of commuters traveling to employment locations.

There was fairly significant interaction between all four communities that were analyzed. Figure 4-1 indicates that Seneca has more Clemson based commuters working within that city, followed by Walhalla, and then Westminster.

Figure 4-1: Clemson Residents’ Commute Patterns





Many Oconee County residents commute in the direction of Anderson or Greenville. As shown in Figure 4-2, Seneca residents travel patterns indicate they are employed in Anderson, Clemson, Walhalla, and Westminster.

Figure 4-2: Seneca Residents' Commute Patterns

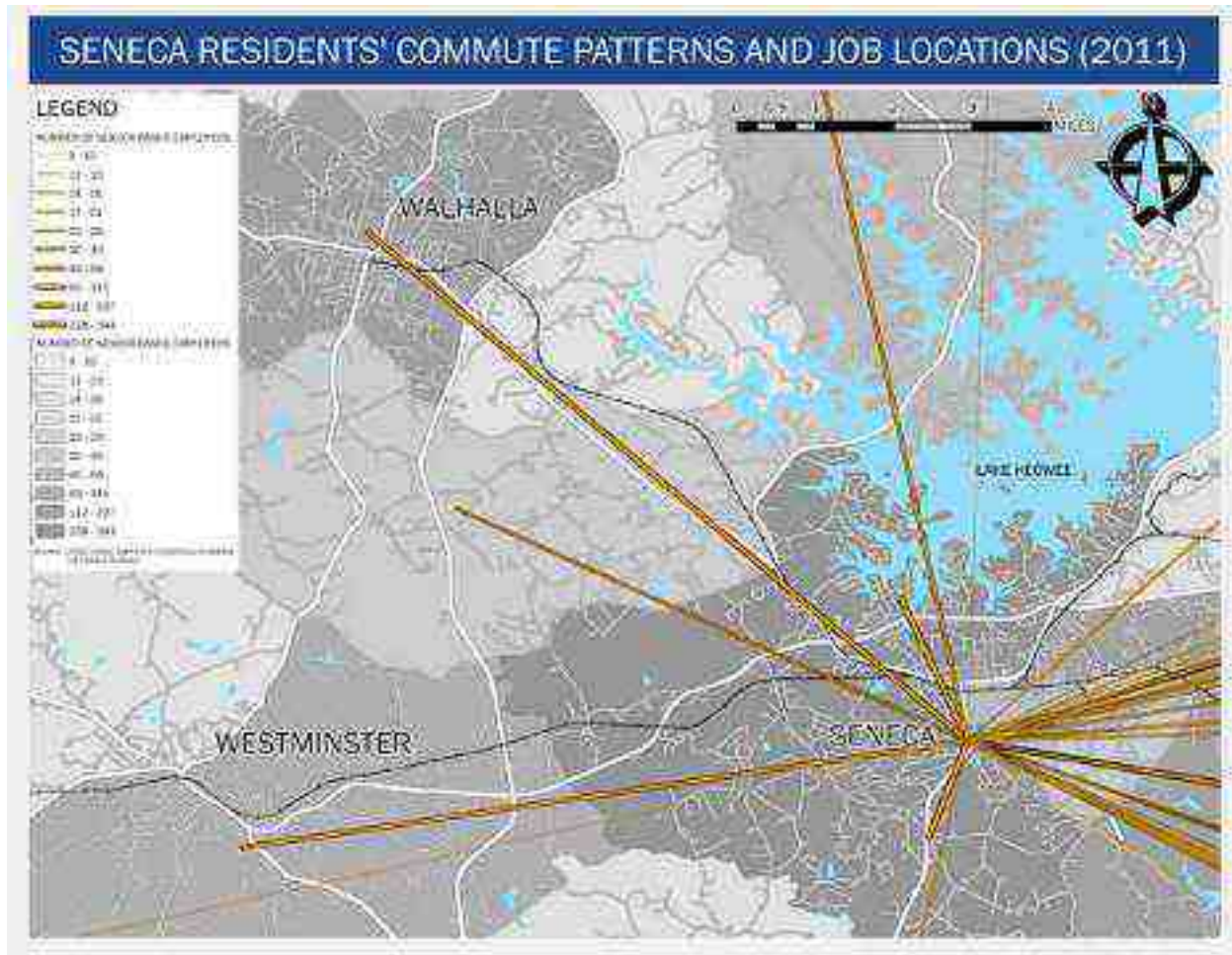
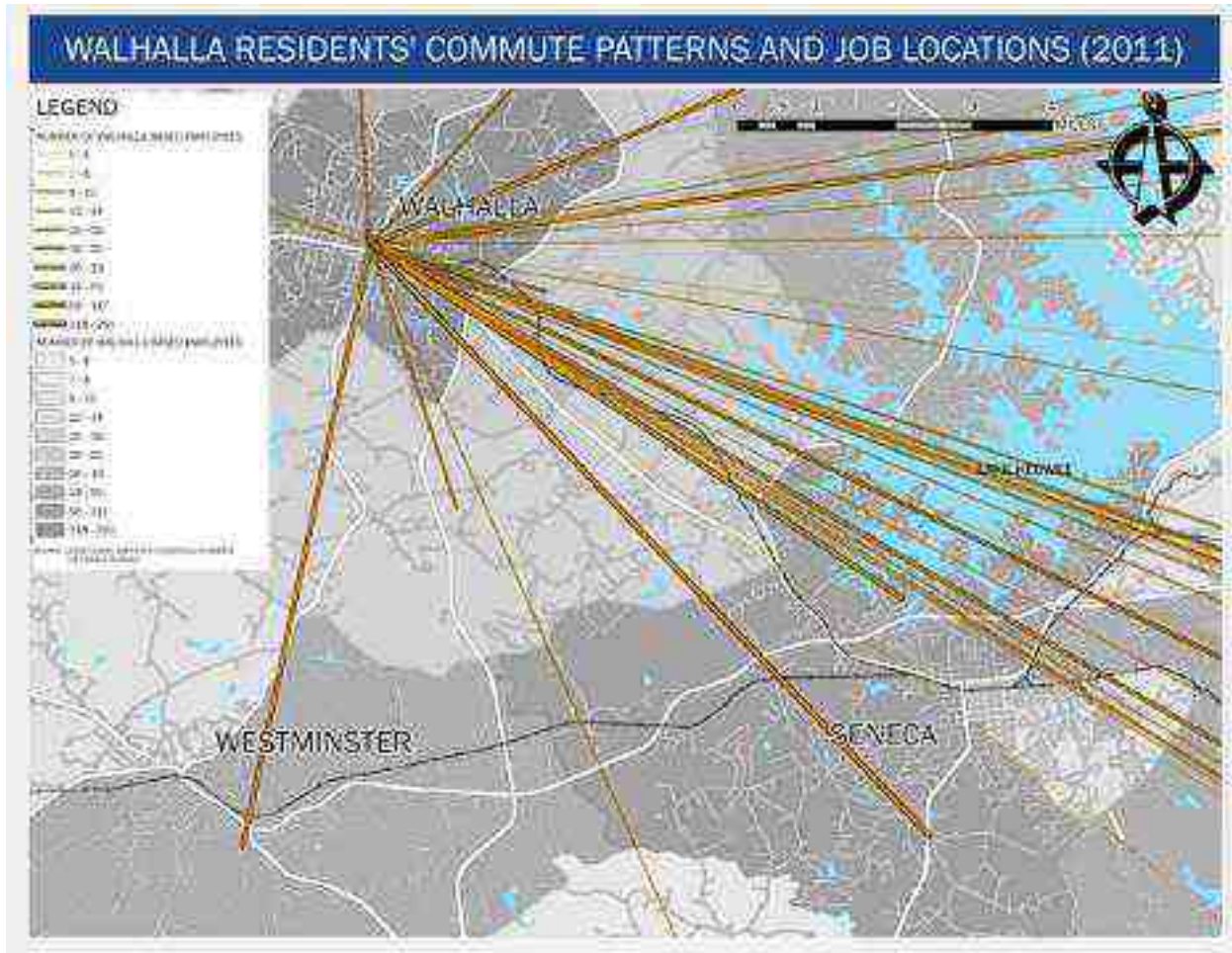


Figure 4-3 indicates that Walhalla residents have a variety of employment destinations, principally Seneca, Clemson, and Greenville. Additionally, there are a significant number Walhalla residents commuting to Westminster.



Figure 4-3: Walhalla Residents' Commute Patterns

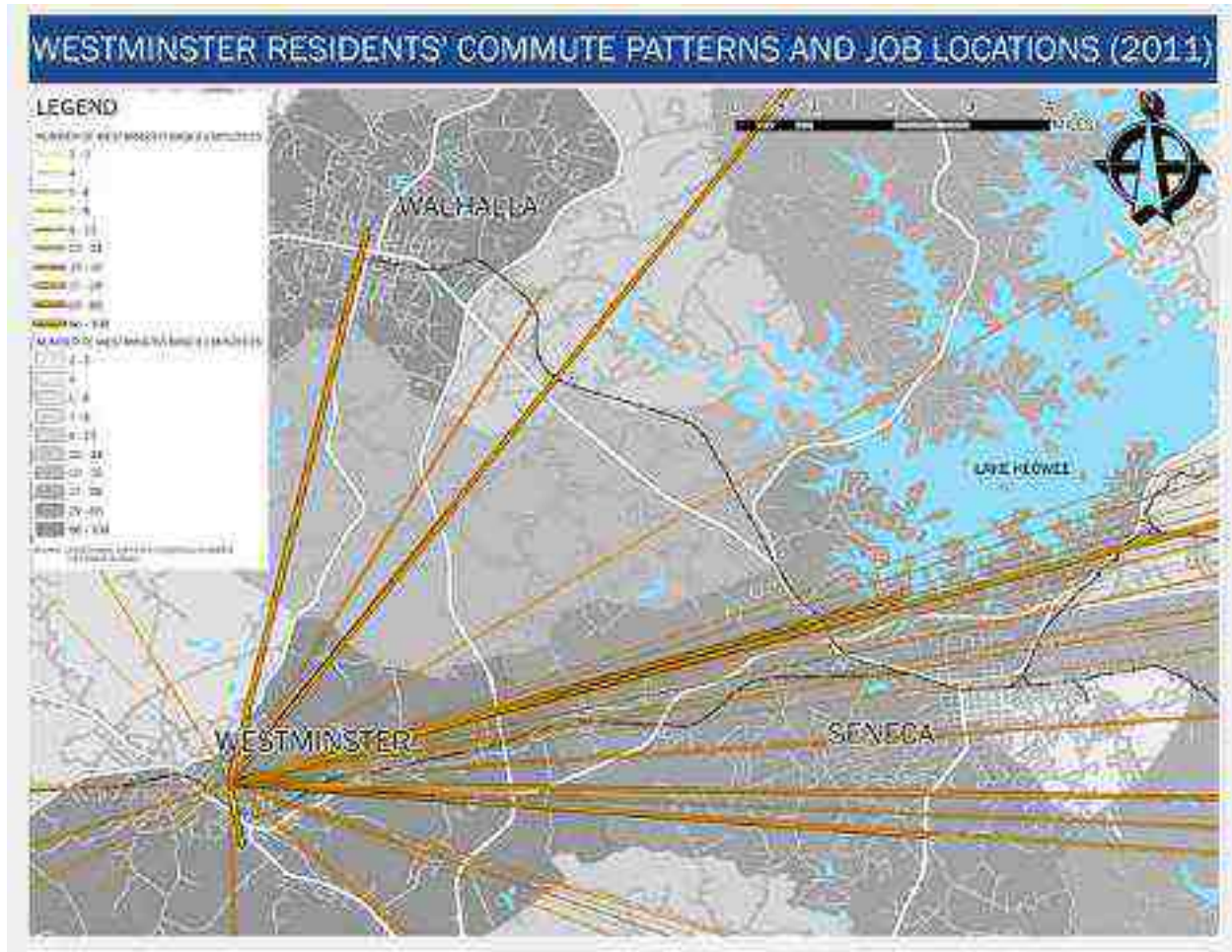


Similarly to the commuter activity shown Figure 4-3, Westminster commuter patterns displayed in Figure 4-4 indicate work trips to Clemson, Anderson and Seneca. The commuter activity observed between Walhalla and Westminster also occurs in the opposite direction.





Figure 4-4: Westminster Residents' Commute Patterns



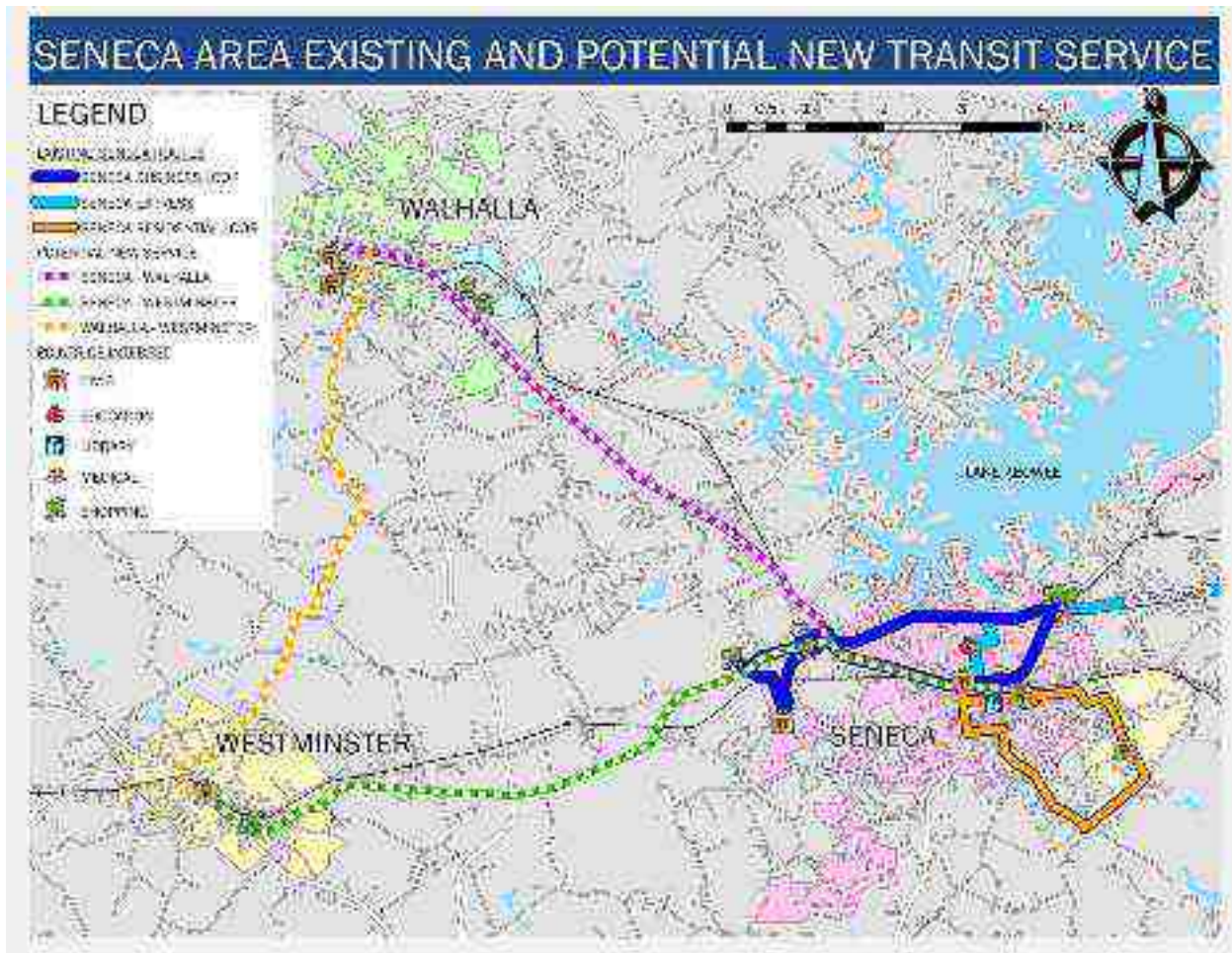
Based on the prior study recommendations, review of employee travel commute patterns and other factors, a service implementation plan was developed that consists of establishment of three new routes which could also be implemented as one loop route.

As shown in Figure 4-5, the existing services are displayed in the Seneca area and colors designate the new route services as follows:

- Purple Route: Seneca to Walhalla
- Green Route: Seneca to Westminster
- Gold Route: Walhalla to Westminster
- Loop Route: Seneca/Walhalla/Westminster



Figure 4-5: Existing and Potential Transit Service



The Purple and Green Routes are designed as an extension of the existing transit service in Seneca and the current Seneca service operation parameters were assumed for the potential routes. The Seneca service currently operates on weekdays from approximately 6:30 am to 6:30 pm. The Seneca service also operates on a one hour frequency between Seneca and Clemson, and this service frequency was assumed for the Purple and Green Routes. The Gold Route is shorter than the other routes and is assumed to operate on a thirty minute frequency. A description of the routes follows. Also, based on field review and TATFC recommendations a list of potential bus stop and shelter locations was developed for the routes.

#### Purple Route: Seneca to Walhalla

The Purple Route travels from Seneca to Walhalla primarily on SC 28. The route would operate to Downtown Seneca – Railroad Park, Oconee Medical Center, Walmart, Walhalla, and the Oconee County Government complex. The bus stop/shelter locations in Walhalla are described below and depicted in Figure 4-6. Note: more shelters than bus stops were recommended for downtown Walhalla in order to conservatively estimate capital costs.



Purple Route Bus Stop and Shelter Locations:

Shelter - Oconee County Government Offices on Pine Street

Shelter - W. Main @ S. Church Street

Shelter - W. Main @ N. Tugaloo Street

Shelter - E. Main @ SR 183

Shelter - E. Main @ S. Spring Street

Shelter - E. Main @ N. Ann Street

Shelter - Blue Ridge Boulevard @ N. Kenneth Street

Bus Stop - Blue Ridge Boulevard @ Subway

Shelter - Blue Ridge Boulevard @ Scenic Plaza Shopping Center (Additional evaluation should be undertaken concerning deviating from Blue Ridge Boulevard to effectively serve Scenic Plaza area)

Bus Stop - Blue Ridge Boulevard @ Keowee School

Bus Stop - Blue Ridge Boulevard @ Memorial Drive

Shelter (Existing) - Blue Ridge Boulevard @ Medical Center

Note: SC 28 (Blue Ridge Boulevard) is a divided highway with challenges to establishing stops due to safety concerns and time-consuming vehicle operations.

Figure 4-6: Purple Route Bus Stop and Shelter Locations in Walhalla





### Green Route: Seneca to Westminster

The Green Route travels from Seneca to Westminster primarily on SC 123. The route would operate to Downtown Seneca – Railroad Park, Oconee Medical Center, Walmart, and downtown Westminster. The bus stop/shelter locations in Westminster are described below and depicted in Figure 4-7.

#### Green Route Bus Stop and Shelter Locations:

Shelter (Existing) - Blue Ridge Boulevard @ Medical Center

Bus Stop - E. Main @ Oak Street

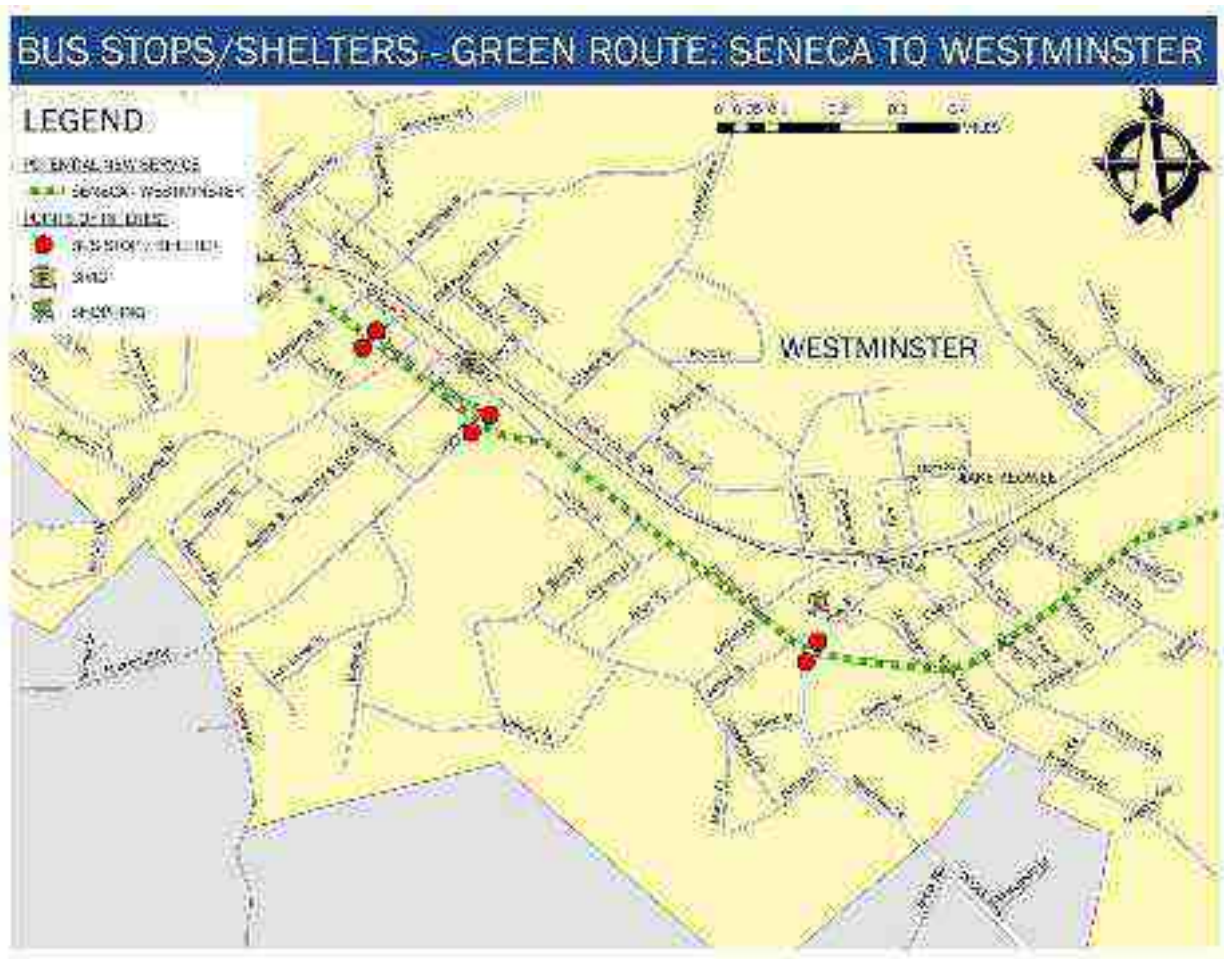
Bus Stop - E. Main @ Lucky Street

Bus Stop - Zimmerman @ W. Windsor Street

Shelter - E. Main @ Oak Street

Note: SC 123 is a divided highway with challenges to establishing stops due to safety concerns and time-consuming vehicle operations.

Figure 4-7: Green Route Bus Stop and Shelter Locations in Westminster





### **Gold Route: Walhalla to Westminster**

The Gold Route connects Walhalla and Westminster and will utilize the stops established in these cities in the development of the Purple and Green Routes. There may be a need, as yet unidentified, for a bus stop/shelter location on SC 183.

### **Loop Route**

The three routes described above could also be implemented as a large loop route. One of the disadvantages of a circular or loop route is that a passenger may be forced to travel in the opposite direction of their desired destination. For example, if a passenger traveled clockwise on a loop route from Westminster to Walhalla, they would have to travel from Walhalla to Seneca and then to Westminster in order to return to their point of origin. A way to mitigate this situation is to have another loop route that travels in the opposite direction. The passenger in the earlier example would board the bus traveling in the counter-clockwise direction and return to Westminster from Walhalla. The disadvantage of this solution is that it doubles the number of vehicles and cost required.

Schedules for the Purple, Green, and Gold Routes were developed, as well as a schedule for a combined Loop Route. The schedules were designed to coordinate with the existing Seneca routes and they are located in Appendix B.

### **Complementary Americans with Disabilities Act (ADA) Paratransit Service**

The Americans with Disabilities Act (ADA) requires public transit agencies that provide fixed-route service to also provide “complementary paratransit” service to persons with disabilities who cannot use the fixed-route bus or rail service because of a disability. The ADA regulations specifically define a population of customers who are entitled to this service as a civil right. The regulations also define minimum service characteristics that must be met for this service to be considered equivalent to the fixed-route service it is intended to complement.

Currently, the Seneca system contracts with the Clemson Area Transit (CAT) service to operate transit service. CAT contracts with Seniors Unlimited to provide paratransit service for eligible customers. Seniors Unlimited utilizes funds from Medicare, Medicaid, and other funding sources to provide fare free transportation for people with disabilities. It is assumed this same arrangement would continue with the route extensions from Seneca to Walhalla and Westminster.



### Section 5 – Operational, Maintenance, and Capital Cost Estimates

An operating plan was prepared for sixty minute frequencies for the two routes connecting to the existing Seneca (business and residential loop) routes based on route and service characteristics and is presented in Tables 5-1, 5-2, and 5-3. Additionally, an operating plan for the Gold Route linking Walhalla and Westminster was developed. The operating plans are presented separately so that the estimated operating and maintenance (O&M) costs of each route alignment is distinct. With this approach, the estimated cost of each potential segment of the system can be added to the initial phase to estimate what each additional expansion, including a loop route, to the system will cost.

The operating plans were developed with the following assumptions:

- The routes would operate 12 hours per day for 255 weekdays per year
- Travel speed was estimated at approximately 25 miles per hour
- O&M costs of \$65.32 per revenue hour based on actual City of Seneca data. In finalizing O&M cost, consideration of establishing a contingency of up to 25% could be warranted.
- Ridership estimates:
  - Low - 10 passengers per revenue hour
  - Moderate - 20 passengers per revenue hour
  - High - 30 passengers per revenue hour

Note: The current Seneca service has approximately 35 passengers per revenue hour based on 28,000 passengers per month divided by 792 revenue hours per month (36 hours per day x 22 weekdays per month)

Table 5-1: O&M Cost Estimates for Purple Route – Seneca to Walhalla

Annual Service Statistics	60 Minute Frequency
Peak Vehicles	1
Fleet Vehicles	2
Vehicle Revenue Hours	3,060
Vehicle Revenue Miles	67,300
<b>Estimated Low Ridership <sup>1</sup></b>	<b>30,600</b>
<b>Estimated Moderate Ridership</b>	<b>61,200</b>
<b>Estimated High Ridership</b>	<b>91,800</b>
<b>Annual O&amp;M Cost <sup>2</sup></b>	<b>\$199,879</b>
<i>Estimated Cost per Revenue Hour</i>	<i>\$65.32</i>

1. Low ridership is 10 passengers per revenue hour; Moderate is 20; High is 30  
 2. O&M costs based on City of Seneca data



Table 5-2: O&M Cost Estimates for Green Route – Seneca to Westminster

Annual Service Statistics	60 Minute Frequency
Peak Vehicles	1
Fleet Vehicles	2
Vehicle Revenue Hours	3,060
Vehicle Revenue Miles	67,300
<b>Estimated Low Ridership <sup>1</sup></b>	<b>30,600</b>
<b>Estimated Moderate Ridership</b>	<b>61,200</b>
<b>Estimated High Ridership</b>	<b>91,800</b>
<b>Annual O&amp;M Cost <sup>2</sup></b>	<b>\$199,879</b>
<i>Estimated Cost per Revenue Hour</i>	<i>\$65.32</i>

1. Low ridership is 10 pax/rev. hr.; Moderate is 20 pax/rev. hr.; High is 30 pax/rev. hr.
2. O&M costs based on City of Seneca data

Table 5-3: O&M Cost Estimates for Gold Route – Walhalla to Westminster

Annual Service Statistics	30 Minute Frequency
Peak Vehicles	1
Fleet Vehicles	2
Annual Vehicle Revenue Hours	3,060
Annual Vehicle Revenue Miles	91,800
<b>Estimated Low Ridership <sup>1</sup></b>	<b>30,600</b>
<b>Estimated Moderate Ridership</b>	<b>61,200</b>
<b>Estimated High Ridership</b>	<b>91,800</b>
<b>Annual O&amp;M Cost <sup>2</sup></b>	<b>\$199,879</b>
<i>Estimated Cost per Revenue Hour</i>	<i>\$65.32</i>

1. Low ridership is 10 pax/rev. hr.; Moderate is 20 pax/rev. hr.; High is 30 pax/rev. hr.
2. O&M costs based on City of Seneca data

In Table 5-4, the O&M costs for the three routes are summarized. The summary includes the costs of implementing only the Purple Route; implementing the Purple and Green Routes together; the cost of the Gold Route only; and the cost of implementing all three routes (which represents the O&M cost of the Loop Route).



Table 5-4: O&M Cost Estimates Summary

Annual Service Statistic Estimates	Purple Route Only 60 Minute Frequency	Purple and Green Routes 60 Minute Frequency	Gold Route Only 30 Minute Frequency	Purple, Green, and Gold Routes
Peak Vehicles	1	2	1	3
Fleet Vehicles	2	3	1	4
Annual Vehicle Revenue Hours	3,060	6,120	3,060	9,180
Annual Vehicle Revenue Miles	67,300	125,400	91,800	217,200
Estimated Low Ridership <sup>1</sup>	30,600	61,200	30,600	91,800
Estimated Moderate Ridership	61,200	122,400	61,200	183,600
Estimated High Ridership	91,800	183,600	91,800	275,400
Total Operating and Maintenance Cost <sup>2</sup>	\$199,879	\$399,758	\$199,879	\$599,638

1. Low ridership is 10 pax/rev. hr.; Moderate is 20 pax/rev. hr.; High is 30 pax/rev. hr.

2. O&M costs based on City of Seneca data

## Section 6 – Capital Equipment and Facility Requirements

The capital cost estimates are presented in this section. The estimated capital costs of three types of transit vehicles are presented in Table 6-1. The vehicle types are:

- Small bus/van – Also known as “cutaways”, these vehicles are usually 16 to 28 feet in length, seat 10 to 22 passengers, and can cost up to \$80,000.
- Large diesel bus - Large buses are typically thirty-five to forty-eight feet in length, seat 27 to 40 passengers, and cost approximately \$450,000.
- Large electric bus – The City of Seneca is in possession of four large Proterra electric transit vehicles. The buses are approximately 35 feet in length and can seat about 40 passengers. The cost of a large electric bus is approximately \$1,000,000.

The FTA Section 5311 program provides capital funding assistance of 80 percent of the vehicle cost. SCDOT provides an additional ten percent and the participating jurisdiction(s) are required to provide a 10 percent local match. Table 6-1 provides an estimate of the capital cost for each funding source. Additionally, the useful life of the vehicle is presented. The useful life is the number of years a vehicle must be in service before the FTA will authorize vehicle replacement. Table 6-1 also contains an estimate of the amount of funds the local transit entity should accrue annually to prepare for the vehicle replacement costs.





Table 6-1: Estimated Transit Vehicle Capital Costs

Statistics	Small Bus/Van	Large Diesel Bus	Large Electric Bus
Estimated Transit Vehicle Cost	\$80,000	\$450,000	\$1,000,000
Estimated Vehicle Requirement	4	4	4
Total Fleet Cost	\$320,000	\$1,800,000	\$4,000,000
Federal Share (80%)	\$256,000	\$1,440,000	\$3,200,000
State Share (10%)	\$32,000	\$180,000	\$400,000
Local Share (10%)	\$32,000	\$180,000	\$400,000
Useful Life - Years <sup>1</sup>	4	12	12
Annual Local Accrual for Replacement <sup>2</sup>	\$8,000	\$13,322	\$29,604

1. Typical useful life for Small bus/van is 4 years. SCDOT allows replacement after 7 years. It should be noted that the seating capacity for small bus/van is limited. If the transit service utilizing this vehicle type is successful, the capacity of the vehicle to meet ridership demand could be exceeded.

2. Small Bus Accrual: Assumed an initial balance of \$0.00 and an average annual rate of return of 2.5 percent and this return was adjusted for an expected inflation rate of 2.5 percent per year;

Large Diesel Bus and Large Electric Bus Accrual: Assumed an initial balance of \$0.00 and an average annual rate of return of 4.75 percent. This return was then adjusted for an expected inflation rate of 2.5 percent per year.

Table 6-2 is a guide for evaluating the local match requirement and annual local accrual for vehicle replacement for the three vehicle types and for purchasing up to five vehicles.

Table 6-2: Local Match and Annual Capital Accrual Estimates for Transit Vehicles

Statistics	Small Bus/Van	Large Diesel Bus	Large Electric Bus
One Bus Local Match	\$8,000	\$45,000	\$100,000
One Bus Local Accrual	\$2,000	\$3,330	\$7,401
Two Buses Local Match	\$16,000	\$90,000	\$200,000
Two Buses Local Accrual	\$4,000	\$6,660	\$14,802
Three Buses Local Match	\$24,000	\$135,000	\$300,000
Three Buses Local Accrual	\$6,000	\$9,991	\$22,203
Four Buses Local Match	\$32,000	\$180,000	\$400,000
Four Buses Local Accrual	\$8,000	\$13,322	\$29,604
Five Buses Local Match	\$40,000	\$225,000	\$500,000
Five Buses Local Accrual	\$10,000	\$16,652	\$37,005

The extension of transit service to Walhalla and Westminster will require capital infrastructure improvements along the route alignments. A charging station in Walhalla is recommended for recharging the Gold Route if electric vehicles are utilized. This station could also provide charging opportunities for the Purple Route. Additionally, a charging station in Walhalla would be well situated for recharging the Loop Route(s), if implemented. The estimated capital costs of bus stops and shelters is provided in Table



6-3 as well, based on the estimates presented in Section 4. The same capital funding shares were applied to the estimated capital facility improvement costs as with the transit vehicle capital costs in Table 6-1.

Table 6-3: Capital Facility Improvement Cost Estimates

Capital Facility Improvement Cost Estimates			
Type	Units	Estimated Unit Cost	Total
Purple Route: Seneca to Walhalla			
Charging Station	1	\$300,000	\$300,000
Shelters	10	\$6,000	\$60,000
Bus Stops	9	\$250	\$2,250
			\$362,250
Annual Local Accrual*			\$2,814
Green Route: Seneca to Westminster			
Shelters	2	\$6,000	\$12,000
Bus Stops	5	\$250	\$1,250
			\$13,250
Annual Local Accrual*			\$103
Gold Route: Walhalla to Westminster			
Shelters	1	\$6,000	\$6,000
			\$6,000
Annual Local Accrual*			\$47
Grand Total			\$381,500
Federal Share (80%)			\$305,200
State Share (10%)			\$38,150
Local Share (10%)			\$38,150
Annual Local Accrual*			\$2,964

\* Assumes Ten Year Useful Life

Note: Any cost and/or quantity opinions, estimates or forecasts provided by the URS was on a basis of experience and judgment, but since URS has no control over market conditions or bidding procedures, URS cannot and does not warrant that bids, ultimate construction cost, or project economics will not vary from such opinions, estimates or forecasts.



## Section 7 – Financial Plan

An annual financial plan summary reflecting recommended route alignments in the expansion of the Seneca system was developed. The plan includes operating and capital requirements as well as potential funding sources. A number of assumptions were made in development of the financial plan. Any changes to the assumptions would change the plan. The financial plan assumptions include the following:

- The system expansion operating and maintenance costs are based on actual Seneca costs
- The system expansion would receive FTA Section 5311 operating assistance funds that would cover 50 percent of the transit service operations cost
- The system may be eligible to receive an allocation of operating assistance from SCDOT at the current Seneca system level of twenty-five percent
- Oconee County, Walhalla, Westminster, and/or other jurisdictions would provide the local match of twenty-five percent of operating cost
- The system expansion would be fare-free
- Vehicle purchases would be funded through FTA discretionary grant programs



Table 7-1: Annual O&M and Capital Cost Estimate Summary

Annual Service Statistic Estimates	Purple Route Only 60 Minute Frequency	Purple and Green Routes 60 Minute Frequency	Gold Route Only 30 Minute Frequency	Purple, Green, and Gold Routes
Peak Vehicles	1	2	1	3
Fleet Vehicles	2	3	1	4
Annual Vehicle Revenue Hours	3,060	6,120	3,060	9,180
Annual Vehicle Revenue Miles	67,300	125,400	91,800	217,200
Estimated Low Ridership <sup>1</sup>	30,600	61,200	30,600	91,800
Estimated Moderate Ridership	61,200	122,400	61,200	183,600
Estimated High Ridership	91,800	183,600	91,800	275,400
Total Operating and Maintenance Cost <sup>2</sup>	\$199,879	\$399,758	\$199,879	\$599,638
Federal Share - O&M (50%)	\$99,940	\$199,879	\$99,940	\$299,819
State Share - O&M (25%)	\$49,970	\$99,940	\$49,970	\$149,909
Local Share - O&M (25%)	\$49,970	\$99,940	\$49,970	\$149,909
Capital Facility Improvement Local Accrual	\$2,814	\$2,917	\$47	\$2,964
Capital Accrual Cost - Small Bus/Van	\$4,000	\$6,000	\$2,000	\$8,000
Capital Accrual Cost - Large Diesel Bus	\$6,660	\$9,991	\$3,330	\$13,322
Capital Accrual Cost - Large Electric Bus	\$14,802	\$22,203	\$7,401	\$29,604
Total Annual Local Cost - Small Bus/Van	\$56,784	\$108,857	\$52,016	\$160,873
Total Annual Local Cost - Large Diesel Bus	\$59,444	\$112,848	\$53,346	\$166,195
Total Annual Local Cost - Large Electric Bus	\$67,586	\$125,060	\$57,417	\$182,477

1. Typical useful life for Small bus/van is 4 years. SCDOT allows replacement after 7 years. It should be noted that the seating capacity for small bus/van is limited. If the transit service utilizing this vehicle type is successful, the capacity of the vehicle to meet ridership demand could be exceeded.

2. Small Bus Accrual: Assumed an initial balance of \$0.00 and an average annual rate of return of 2.5 percent and this return was adjusted for an expected inflation rate of 2.5 percent per year; Large Diesel Bus and Large Electric Bus Accrual: Assumed an initial balance of \$0.00 and an average annual rate of return of 4.75 percent. This return was then adjusted for an expected inflation rate of 2.5 percent per year.

Note: Any cost and/or quantity opinions, estimates or forecasts provided by the URS was on a basis of experience and judgment, but since URS has no control over market conditions or bidding procedures, URS cannot and does not warrant that bids, ultimate construction cost, or project economics will not vary from such opinions, estimates or forecasts.



## Section 8 – Recommendations

The following recommendations were adopted by the TATFC and will be presented to the Oconee County Council at a future meeting for consideration and further action:

### Governance

The City Council of Seneca serves as the Transit Board for the three existing Seneca routes and CAT operates Seneca's transit vehicles. Extending transit service further into Oconee County will broaden the geographic service area and brings the cities of Walhalla and Westminster into the system. The TATFC representatives from these cities have expressed interest in participating in a transit program. Having the City of Seneca Transit Board govern the expanded routes would be prudent and Seneca has expressed an interest in this role. It was the recommendation of the TATFC that Seneca utilize the exiting transit agency structure they have in place to govern the expanded system.

### Phasing

The route extensions from the Seneca service were described in Section 4 and the O&M and capital costs were presented for each individual route and as one combined loop route. The recommendation of the TATFC representatives was to implement the Purple Route (Seneca to Walhalla) and the Green Route (Seneca to Westminster), with implementation of the Gold Route (Walhalla to Westminster) in a future phase.

### Vehicles

The TATFC strongly recommended the large electric bus vehicle option. The Seneca Transit Authority has invested in five Proterra electric buses and will be the only transit authority in the nation operating an exclusively electric large bus fleet. The TATFC supports the Seneca decision to operate an all-electric fleet and recommends utilizing these vehicles for the system expansion.

### Designated Bus Stops

The expansion of the current system is an excellent opportunity to discontinue the existing "flag" stop system and implement designated bus stops and bus stop signage. The current service does not offer bus stop signs or shelters, with the exception of the downtown transfer point and medical center.

### Passenger Fare

Currently, neither the CAT system nor the City of Seneca transit service charge passenger fare. There are many benefits to operating a fare-free system:



- Reduces capital expenses. No fares means not having to purchase, maintain, and replace fare collection equipment. It also precludes the need for fare media, ticketing equipment, etc.
- Reduces operating expenses. Collecting fares requires a cash management system. Handling money requires care, proper processes, accounting, security, etc. Additionally, a fare free system eliminates the need for fare evasion enforcement, the cost of repair technicians, and spare parts.
- Improves operations. No fare collection speeds up the boarding process. Passengers do not have to swipe cards, wait for change, and can use the rear door if available.
- Promotes ridership. Fares discourage ridership, especially off peak, non-commute trips.

It was the recommendation of the TATFC that the system remain fare free.



## Appendix A – Employee Survey Questionnaire



**Oconee County Transit Advisory Task Force Committee  
Transit Implementation Study - Employer Survey**

1. In what city/town is your business located?  
\_\_\_\_\_
  
2. What is the nature of your business?  

<input type="checkbox"/> a. Agricultural	<input type="checkbox"/> e. Service Industry (Hotel/Restaurant)
<input type="checkbox"/> b. Finance/Insurance/Real Estate	<input type="checkbox"/> f. Wholesale/Retail/Trade
<input type="checkbox"/> c. Construction	<input type="checkbox"/> g. Other _____
<input type="checkbox"/> d. Manufacturing	
  
3. What are your hours of operation?  
\_\_\_\_\_
  
4. How many people do you employ? \_\_\_\_\_
  
5. If your employees work in shifts, what are the hours?  

<input type="checkbox"/> a. 6:00 am – 2:00 pm	<input type="checkbox"/> d. 10:00 am – 2:00 pm
<input type="checkbox"/> b. 2:00 pm – 10:00 pm	<input type="checkbox"/> e. 2:00 pm – 5:00 pm
<input type="checkbox"/> c. 10:00 pm – 6:00 am	<input type="checkbox"/> f. 5:00 pm – 9:00 pm Other: _____
  
6. Is there adequate parking for your employees (capacity/paved)?  Yes  No
  
7. What modes of transportation do your employees currently use to get to work?  

<input type="checkbox"/> a. Personal car	<input type="checkbox"/> c. Ride with someone	<input type="checkbox"/> e. Walk
<input type="checkbox"/> b. Taxi	<input type="checkbox"/> d. Bike	<input type="checkbox"/> f. Other _____
  
8. The average distance your employees travel from home to work is approximately \_\_\_\_\_ miles.
  
9. If public transportation were available, how many of your employees do you feel would consider using it?  
 None  10%  25%  50%  75% Other \_\_\_\_\_
  
10. Would you be interested in participating in a program that offers tax incentives to encourage your employees to use public transportation?  Yes  No
  
11. What is your general perception of public transportation? \_\_\_\_\_





## Appendix B – Route Schedules



Purple Route: Seneca to Walhalla

Seneca	Medical Center	Walmart	Arrive Walhalla	Depart Walhalla	Medical Center	Walmart	Seneca
-	-	-	-	5:50	6:10	-	6:15
6:20	6:25	-	6:45	6:50	7:10	-	7:15
7:20	7:25	-	7:45	7:50	8:10	-	8:15
8:20	8:25	-	8:45	8:50	9:10	-	9:15
9:20	9:25	-	9:45	9:50	10:10	-	10:15
10:20	10:25	-	10:45	10:50	11:10	-	11:15
11:20	11:25	-	11:45	11:50	12:10	-	12:15
12:20	12:25	-	12:45	12:50	13:10	-	13:15
13:20	13:25	-	13:45	13:50	14:10	-	14:15
14:20	14:25	-	14:45	14:50	15:10	-	15:15
15:20	15:25	-	15:45	15:50	16:10	-	16:15
16:20	16:25	-	16:45	16:50	17:10	-	17:15
17:20	17:25	-	17:45	17:50	18:10	-	18:15
18:20	18:25	-	18:45				

Green Route: Seneca to Westminster

Seneca	Medical Center	Walmart	Arrive Westminster	Depart Westminster	Walmart	Medical Center	Seneca
-	-	-	-	5:50	6:05	6:10	6:15
6:20	6:25	6:30	6:45	6:50	7:05	7:10	7:15
7:20	7:25	7:30	7:45	7:50	8:05	8:10	8:15
8:20	8:25	8:30	8:45	8:50	9:05	9:10	9:15
9:20	9:25	9:30	9:45	9:50	10:05	10:10	10:15
10:20	10:25	10:30	10:45	10:50	11:05	11:10	11:15
11:20	11:25	11:30	11:45	11:50	12:05	12:10	12:15
12:20	12:25	12:30	12:45	12:50	13:05	13:10	13:15
13:20	13:25	13:30	13:45	13:50	14:05	14:10	14:15
14:20	14:25	14:30	14:45	14:50	15:05	15:10	15:15
15:20	15:25	15:30	15:45	15:50	16:05	16:10	16:15
16:20	16:25	16:30	16:45	16:50	17:05	17:10	17:15
17:20	17:25	17:30	17:45	17:50	18:05	18:10	18:15
18:20	18:25	18:30	18:45				



Gold Route: Walhalla to Westminster

Walhalla	Arrive Westminster	Depart Westminster	Walhalla
6:00	6:11	6:15	6:26
6:30	6:41	6:45	6:56
7:00	7:11	7:15	7:26
7:30	7:41	7:45	7:56
8:00	8:11	8:15	8:26
8:30	8:41	8:45	8:56
9:00	9:11	9:15	9:26
9:30	9:41	9:45	9:56
10:00	10:11	10:15	10:26
10:30	10:41	10:45	10:56
11:00	11:11	11:15	11:26
11:30	11:41	11:45	11:56
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15:30	15:41	15:45	15:56
16:00	16:11	16:15	16:26
16:30	16:41	16:45	16:56
17:00	17:11	17:15	17:26
17:30	17:41	17:45	17:56
18:00	18:11	18:15	18:26



### Clockwise Loop Route

Clockwise									
Seneca	Medical Center	Walmart	Arrive Westminster	Depart Westminster	Arrive Walhalla	Depart Walhalla	Medical Center	Walmart	Seneca
6:30	6:35	6:40	7:00	7:05	7:25	7:30	7:50	-	7:55
8:00	8:05	8:10	8:30	8:35	8:55	9:00	9:20	-	9:25
9:30	9:35	9:40	10:00	10:05	10:25	10:30	10:50	-	10:55
11:00	11:05	11:10	11:30	11:35	11:55	12:00	12:20	-	12:25
12:30	12:35	12:40	13:00	13:05	13:25	13:30	13:50	-	13:55
14:00	14:05	14:10	14:30	14:35	14:55	15:00	15:20	-	15:25
15:30	15:35	15:40	16:00	16:05	16:25	16:30	16:50	-	16:55
17:00	17:05	17:10	17:30	17:35	17:55	18:00	18:20	-	18:25
18:30	18:35	18:40	19:00	19:05	19:25	19:30	19:50	-	19:55

### Counter-Clockwise Loop Route

Counter-Clockwise									
Seneca	Walmart	Medical Center	Arrive Walhalla	Depart Walhalla	Arrive Westminster	Depart Westminster	Walmart	Medical Center	Seneca
6:30	-	6:35	6:55	7:00	7:20	7:25	7:45	7:50	7:55
8:00	-	8:05	8:25	8:30	8:50	8:55	9:15	9:20	9:25
9:30	-	9:35	9:55	10:00	10:20	10:25	10:45	10:50	10:55
11:00	-	11:05	11:25	11:30	11:50	11:55	12:15	12:20	12:25
12:30	-	12:35	12:55	13:00	13:20	13:25	13:45	13:50	13:55
14:00	-	14:05	14:25	14:30	14:50	14:55	15:15	15:20	15:25
15:30	-	15:35	15:55	16:00	16:20	16:25	16:45	16:50	16:55
17:00	-	17:05	17:25	17:30	17:50	17:55	18:15	18:20	18:25
18:30	-	18:35	18:55	19:00	19:20	19:25	19:45	19:50	19:55



# PUBLIC HEARING SIGN IN SHEET

## Oconee County Council Meeting

November 18, 2014

6:00 p.m.

**Ordinance 2014-23** "AN ORDINANCE TO AMEND OCONEE COUNTY ORDINANCE 2014-02, THE BUDGET ORDINANCE FOR THE SCHOOL DISTRICT OF OCONEE COUNTY (the "School District") FOR THE FISCAL YEAR BEGINNING JULY 1ST, 2014 AND ENDING JUNE 30TH, 2015, IN CERTAIN LIMITED REGARDS AND PARTICULARS, ONLY, SO AS TO REFLECT THE USE OF ADDITIONAL TAX REVENUE AND ADDITIONAL DELINQUENT TAX COLLECTIONS, INCLUDING PENALTIES AND INTEREST, AND DECREASE THE USE OF FUND BALANCE, ALL ON THE REVENUE SIDE OF THE BUDGET; AND OTHER MATTERS RELATED THERETO"

**Ordinance 2014-24** "AN ORDINANCE AUTHORIZING AND DIRECTING THE PROVISION OF COUNTY-FUNDED LEGAL REPRESENTATION, DEFENSE, AND LIMITED INDEMNIFICATION FOR OCONEE COUNTY EMPLOYEES IN CERTAIN LIMITED CIRCUMSTANCES INVOLVING THE DIRECTION AND PERFORMANCE OF OFFICIAL DUTIES; AND OTHER MATTERS RELATED THERETO"

Everyone speaking before Council will be required to do so in a civil manner.

Council will not tolerate personal attacks on individual council members, county staff or any person or group. Racial slurs will not be permitted. Council's number one priority is to conduct business for the citizens of this county. All citizens who wish to address Council and all Boards and Commission appointed by Council should do so in an appropriate manner.

Written comments may be submitted at any time prior to the hearing for inclusion in the official record of the meeting.

### PRINT Your Name & Check Ordinance[s] You Wish to Address

	Ordinance #	2014-23	2014-24
✓ 1.	Stan Ramsey		✓
✓ 2.	Wes Roberts		✓
3.			
✓ 4.	Ben Adams		✓
✓ 5.	Bobo Richards		✓
✓ 6.	Jeanne GELMAN		✓
✓ 7.	Ernie Corneilus	✓	✓
✓ 8.	Kevin Minzold		✓
✓ 9.	Jim Alexander		✓
✓ 10.	Bill M...ly		✓
✓ 11.	Kevin Stone		✓
✓ 12.	Benny Richards		✓
13.			
14.			

Ordinance #	2014-23	2014-24
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Mr. Chairman and Members of the Council,

I am speaking for a group of citizens, whom I will ask to stand up at this time to acknowledge their support of Ordinance 2014-24.

This ordinance should have passed years ago, in order to protect the county employees and elected officials from FRIVOLOUS lawsuits and threats while they are carrying out their assigned duties.


As we understand, this ordinance will not protect any employees or elected officials who have been legally deemed to be operating outside of the scope of their duties.

Also, we do not understand the logic of the two councilmen who voted against this ordinance. An ordinance which will protect all county employees and elected officials, ranging from the Convenience Center Operator up to the County Administrator and ALL elected officials.

We feel that the county employees and elected officials should be able to conduct their designated responsibilities without fear of potential lawsuits and threats, which may compromise their decisions. We feel that this ordinance will eliminate any unnecessary pressure.

Thank you for listening to our views in this matter.

  
\_\_\_\_\_  
Deborah Case

  
\_\_\_\_\_  
Robert E. High

\_\_\_\_\_

  
\_\_\_\_\_  
D. Edwards

\_\_\_\_\_

  
\_\_\_\_\_  
J. K. Smith

  
\_\_\_\_\_  
Christopher H. Smith

  
\_\_\_\_\_  
Terri Perkins

  
\_\_\_\_\_  
Josh Perry

  
\_\_\_\_\_  
Mark Davis

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Tracy







**AGENDA ITEM SUMMARY  
OCONEE COUNTY, SC**

**COUNCIL MEETING DATE:** November 18, 2014

**COUNCIL MEETING TIME:** 6:00 PM

**ITEM TITLE [Brief Statement]:**

**Third & Final Reading of Ordinance 2014-23 "AN ORDINANCE TO AMEND OCONEE COUNTY ORDINANCE 2014-02, THE BUDGET ORDINANCE FOR THE SCHOOL DISTRICT OF OCONEE COUNTY (the "School District") FOR THE FISCAL YEAR BEGINNING JULY 1ST, 2014 AND ENDING JUNE 30TH, 2015, IN CERTAIN LIMITED REGARDS AND PARTICULARS, ONLY, SO AS TO REFLECT THE USE OF ADDITIONAL TAX REVENUE AND ADDITIONAL DELINQUENT TAX COLLECTIONS, INCLUDING PENALTIES AND INTEREST, AND DECREASE THE USE OF FUND BALANCE, ALL ON THE REVENUE SIDE OF THE BUDGET; AND OTHER MATTERS RELATED THERETO"**

**BACKGROUND DESCRIPTION:**

The School District of Oconee County [SDOC] is increasing two revenue line items in the general fund school operations budget.

- Local tax revenue is estimated to be \$42,583,424; an increase in local tax revenue of \$577,000.
- Late penalties & fees for delinquent tax collections, to be used as revenue in the budget, are estimated to be \$250,000; no money was originally budgeted for this line item.
- The revenue increase in the budget, for both changes, totals \$827,000.

As a result of the two revenue increases in the budget, the SDOC fund balance required to balance the budget will therefore be, \$2,669,286; a reduction in fund balance usage of \$827,000.

**SPECIAL CONSIDERATIONS OR CONCERNS [only if applicable]:**

This is a positive development for the School District of Oconee County, as the amount of fund balance required to balance the School Operations budget is being reduced by \$827,000. The School District of Oconee County is required to maintain a fund balance in accordance with SDOC policy and bond underwriter and rating service requirements, and this change in fund balance usage will help the School District of Oconee County sustain sufficient working capital to meet operational needs in the School Operations Fund, without tax anticipation notes, and will help the SDOC maintain preferred bond ratings.

Nothing in this ordinance will change previously approved expenditures (spending) by the SDOC – all the ordinance does is change the revenue sources to fund such expenditures, because of increased revenue from tax millage and increased revenue from delinquent tax collections, thereby allowing less use of SDOC fund balance to balance the budget.

**FINANCIAL IMPACT [Brief Statement]:**

Check Here if Item Previously approved in the Budget. No additional information required.

**Approved by:** \_\_\_\_\_ **Finance**

**COMPLETE THIS PORTION FOR ALL GRANT REQUESTS:**

Are Matching Funds Available; Yes / No

If yes, who is matching and how much:

**Approved by:** \_\_\_\_\_ **Grants**

**ATTACHMENTS**

Amended SDOC budget document.

**STAFF RECOMMENDATION [Brief Statement]:**

It is the staff's recommendation that Council approve Ordinance 2014-23 on third & final reading.

**Submitted or Prepared By:** \_\_\_\_\_

**Approved for Submittal to Council:** \_\_\_\_\_

**Department Head/Elected Official**

**T. Scott Moulder, County Administrator**

*Council has directed that they receive their agenda packages a week prior to each Council meeting, therefore, Agenda Items Summaries must be submitted to the Administrator for his review/approval no later than 12 days prior to each Council meeting. It is the Department Head / Elected Officials responsibility to ensure that all approvals are obtained prior to submission to the Administrator for inclusion on an agenda.*

*A calendar with due dates marked may be obtained from the Clerk to Council.*

STATE OF SOUTH CAROLINA  
COUNTY OF OCONEE  
**ORDINANCE 2014-23**

**AN ORDINANCE TO AMEND OCONEE COUNTY ORDINANCE 2014-02, THE BUDGET ORDINANCE FOR THE SCHOOL DISTRICT OF OCONEE COUNTY FOR THE FISCAL YEAR BEGINNING JULY 1ST, 2014 AND ENDING JUNE 30TH, 2015, IN CERTAIN LIMITED REGARDS AND PARTICULARS, ONLY, SO AS TO REFLECT THE USE OF ADDITIONAL TAX REVENUE AND ADDITIONAL DELINQUENT TAX COLLECTIONS, INCLUDING PENALTIES AND INTEREST, AND DECREASE THE USE OF FUND BALANCE, ALL ON THE REVENUE SIDE OF THE BUDGET; AND OTHER MATTERS RELATED THERETO.**

**WHEREAS**, Oconee County, South Carolina, a body politic and corporate and a political subdivision of the State of South Carolina, acting by and through its duly elected County Council (the "County Council"), has heretofore adopted and enacted Oconee County Ordinance 2014-02, the School District of Oconee County (the "School District") Budget Ordinance (the "School District Budget Ordinance"); and

**WHEREAS**, Oconee County recognizes that the School District does not have the authority to levy *ad valorem* real property taxes or to directly collect fees, late penalties and interest on fees and late penalties with regard to such taxes ("Fees, Penalties and Interest"); and

**WHEREAS**, by and through Ordinance 2014-22, adopted on October 7, 2014, Oconee County found that Fees, Penalties and Interest collected on behalf of the School District, based on taxes levied for school operations and debt, are to be allocated to the School District for use by the School District; and

**WHEREAS**, due to the adoption of Ordinance 2014-22, the School District will experience an increase in estimated revenues from Fees, Penalties and Interest in the amount of \$250,000.00; and

**WHEREAS**, Oconee County further recognizes that the School District's General Fund is currently projected to receive \$42,583,424.00 in property taxes, which represents an increase of \$577,000.00 in real estate property tax revenue over the School District Budget Ordinance as originally adopted; and

**WHEREAS**, Oconee County further recognizes that the School District's total property tax revenue revisions reflected in this Ordinance will therefore result in a projected total increase in the School District General Fund (the "General Fund"), based on the increases as stated above, of \$827,000.00 (the "Revenue Increase"); and

**WHEREAS**, the Revenue Increase will mean that \$827,000.00 less current General Fund, Unassigned Fund Balance (the "General Fund") will be required to balance the School District Budget than was originally used in the School District Budget Ordinance; and

**WHEREAS**, Oconee County desires to amend the School District Budget Ordinance to reflect and memorialize the above-referenced impacts of the Revenue Increase, as requested by the School District as set forth in Exhibit A, and as specifically shown on Exhibit B and Exhibit C, all of which are attached hereto and incorporated herein as if fully set forth:

**NOW, THEREFORE**, it is hereby ordained, by Oconee County Council, in meeting duly assembled that:

1. Oconee County hereby amends the summary statement of the School District Budget Ordinance as set forth in Exhibit B and Exhibit C to reflect the increase in revenue in the School District Budget by \$250,000.00 in Fees, Penalties and Interest resulting from Ordinance 2014-22 as well as, the increase in property tax revenues of \$577,000.00 which, combined, results in an increase in property tax revenues of \$827,000.00.

2. In order to offset the increase in property tax revenues of \$827,000.00 in the School District Budget, Oconee County hereby further amends the School District Budget Ordinance, as set forth in Exhibit A and Exhibit B, by assigning the net increase in property tax revenues of \$827,000.00 to the General Fund, and by reducing use of fund balance and other financing sources that were previously assigned and necessary to fund the General Fund by \$827,000.00.

3. All other parts, terms, and provisions of the Budget Ordinance, including all attachments thereto, not otherwise specifically amended, directly or by implication, by this Ordinance, remain in full force and effect.

4. Should any part or provision of this Ordinance be deemed unconstitutional or unenforceable by any court of competent jurisdiction, such determination shall not affect the rest and remainder of this Ordinance, all of which is hereby deemed separable.

5. All ordinances, orders, resolutions, and actions of Oconee County Council inconsistent herewith are, to the extent of such inconsistency only, hereby repealed, revoked, and rescinded.

6. This Ordinance shall take effect and be in full force and effect from and after third reading and enactment by Oconee County Council.

**ORDAINED** in meeting, duly assembled, this 18<sup>th</sup> day of November, 2014.

**ATTEST:**

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Elizabeth Hulse,  
Clerk to Oconee County Council

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Joel Thrift,  
Chairman, Oconee County Council

First Reading:       October 7, 2014  
Second Reading:     October 21, 2014  
Third Reading:       November 18, 2014  
Public Hearing:       November 18, 2014

EXHIBIT A  
TO OCONEE COUNTY ORDINANCE 2014-23



**SCHOOL DISTRICT OF OCONEE COUNTY**

414 South Pine Street, Walhalla, South Carolina 29691  
Phone: 864.886-4400 • Facsimile: 864.886-4408  
www.oconee.k12.sc.us

September 22, 2014

Mr. Scott Moulder  
Oconee County Administrator  
415 South Pine Street  
Walhalla, SC 29691

Dear Mr. Moulder:

On Monday, September 15, the school board voted to amend our budget request to county council. While this request reflects a change in the revenue, our spending plan remains unchanged. Our situation is very similar to yours with the county budget – the increased revenue simply lowers the amount that we were going to have to take out of reserves. The revised budget that our board approved is attached to this letter. The amendment changes our request from \$59,393,849 to \$60,220,849.

We appreciate your efforts in protecting both the county and school district budgets during this time of reduced state funding.

Sincerely,

Michael Thorsland, Ed.D.  
Superintendent of Education

**EXHIBIT B  
TO OCONEE COUNTY ORDINANCE 2014-23**

**SCHOOL DISTRICT OF OCONEE COUNTY  
GENERAL FUND SUMMARY AS REVISED  
Ordinance 2014-23  
2014-2015 Budget**

<b>School Operations - Local Taxes</b>			
<b>Description</b>	<b>FY 2015 Council Approved</b>	<b>Budget Amendment 2014-23</b>	<b>FY 2015 Budget As Revised</b>
Local tax revenue	42,006,424	577,000	42,583,424
Local Property Tax relief reimbursement	3,948,130		3,948,130
Homestead Exemption tax revenue	1,595,798		1,595,798
Property tax relief Tier 3	10,993,134		10,993,134
Merchants' inventory tax revenue	169,330		169,330
Manufacturers' depreciation reimbursement	405,383		405,383
Motor carrier fees	275,650		275,650
Late Penalties and Fees		250,000	250,000
<b>Total from Local Taxes</b>	<b>59,393,849</b>	<b>827,000</b>	<b>60,220,849</b>

<b>Fund Balance Required to Balance Budget</b>			
<b>Description</b>	<b>FY 2015 Council Approved</b>	<b>Budget Amendment 2014-23</b>	<b>FY 2015 Budget As Revised</b>
Fund Balance Required to Balance Budget	4,496,286	(827,000)	3,669,286
<b>Total Fund Balance Required</b>	<b>4,496,286</b>	<b>(827,000)</b>	<b>3,669,286</b>

**EXHIBIT C  
TO OCONEE COUNTY ORDINANCE 2014-23  
Page 1 of 2**

School District of Oconee County General Fund Revised Budget Request for FY2014-2015				
		Fiscal FY 2014 Budget	Revised FY 2015 Budget Proposal	Increase/ Decrease
1	Local tax revenue	42,505,654	42,553,424	477,770
2	Local property tax relief reimbursement	1,988,330	1,946,180	(42,150)
3	Homestead exemption tax revenue	1,584,795	1,555,795	(29,000)
4	Property tax relief TIER 3	31,721,580	30,933,324	(788,256)
5	Manufacturers' investment tax revenue	459,300	459,300	-
6	Manufacturers' investment tax rebate amount	409,333	409,303	(30)
7	Minor carrier fees	779,600	779,600	-
8	Local benefits and fees	-	750,000	750,000
9	<b>Total from Local Taxes</b>	<b>50,120,985</b>	<b>60,220,633</b>	<b>10,100,654</b>
10	Interest on investments	50,000	50,000	-
11	Grant fees	10,000	10,000	-
12	Bartender	20,000	20,000	-
13	Trade Show/ payroll services	7,500	7,500	-
14	Other local revenue	-	-	-
15	<b>Total Non-Tax Local Revenue</b>	<b>87,500</b>	<b>87,500</b>	<b>-</b>
16	School bus drivers' salaries	505,000	505,000	-
17	Bus drivers' workers compensation	54,000	54,000	-
18	Fringe benefits	4,273,945	4,250,641	(23,304)
19	Health insurance	2,429,809	2,429,809	-
20	Other than revenue	-	-	-
21	Confidential information	992,005	735,980	(256,025)
22	Private program aid	2,749,697	1,163,274	(1,586,423)
23	Elementary program aid	3,804,374	3,831,793	27,419
24	High school program aid	1,264,505	959,238	(305,267)
25	Transferable non-capped program aid	28,200	27,600	(600)
26	Special for disabled program aid	1,064,566	1,040,950	(23,616)
27	Homebased program aid	50,000	50,000	-
28	Structurally handicapped program aid	118,645	116,145	(2,500)
29	Educationally handicapped program aid	54,416	57,175	2,759
30	Learning handicapped program aid	1,007,107	1,072,000	64,893
31	At-risk handicapped program aid	65,632	64,917	(715)
32	Walden handicapped program aid	25,140	24,605	(535)
33	Orthopedically handicapped program aid	44,999	44,403	(596)
34	Vocational program aid	2,331,774	2,174,251	(157,523)
35	Autistic handicapped program aid	341,171	231,839	(109,332)
36	Gifted & Talented Education/Support	-	275,161	275,161
37	Academy of Excellence	-	277,188	277,188
38	Adult Education	-	35,410	35,410
39	Unified Region 7/8/9/10/11	-	125,186	125,186
40	Region 10/11/12/13	-	1,565,188	1,565,188
41	<b>Total State Sources</b>	<b>23,509,814</b>	<b>24,245,356</b>	<b>735,542</b>
42	<b>Total Revenue</b>	<b>81,720,909</b>	<b>84,603,709</b>	<b>2,882,798</b>
43	Transfer from BLA	2,360,400	1,445,078	(915,322)
44	Transfer from Special Revenue	1,109,086	1,079,096	(29,990)
45	Transfer from Special Revenue (Hearing Well Fund)	100,000	200,000	100,000
46	Indirect Cost Transfer Revenue	132,700	132,700	-
47	<b>Transfers In</b>	<b>4,502,186</b>	<b>3,856,874</b>	<b>(645,312)</b>
48	<b>Total Other Funding Sources</b>	<b>4,502,186</b>	<b>3,856,874</b>	<b>(645,312)</b>
49	<b>Total Revenue and Transfers from All Sources</b>	<b>86,223,095</b>	<b>88,460,583</b>	<b>2,237,488</b>
50	Revised Operating (page 2)	80,261,985	80,190,832	(71,153)
51	<b>Total Before Request to Special Budget</b>	<b>(1,215,150)</b>	<b>(1,669,286)</b>	<b>(454,136)</b>

**EXHIBIT C  
TO OCONEE COUNTY ORDINANCE 2014-23**

Page 2 of 2

School District of Oconee County FY2014-2015 Proposed Expenditure Budget Summary				
Account group	Account Group Description	Revised FY 2014 Budget	Proposed FY 2015 Budget	Increase/ (decrease)
1	009 Salaries	57,899,587	59,175,312	1,275,725
2	000 Fringe, Payroll taxes and matching expense	21,476,127	22,916,696	1,440,569
3	Allocations and departmental budgets:			
4	001 Instructional	608,664	602,620	(6,044)
5	002 Special Education	60,664	67,632	6,968
6	003 Fine arts	72,498	72,498	-
7	004 Educational media	243,317	242,443	(874)
8	005 Staff development	95,391	94,869	(522)
9	007 Department budgets	2,863,473	2,727,469	(136,004)
10	008 Health Room Supplies	53,795	52,705	(1,090)
11	101 Itinerant instructional travel	20,700	20,700	-
12	105 Lego leagues	12,000	12,000	-
13	150 District paid school fees	375,000	426,000	51,000
14	240 Custodial supplies	323,775	323,775	-
15	250 Copier leases	224,460	224,460	-
16	310 Maintenance department repairs	330,268	330,268	-
17	311 Facility specialist repairs	118,868	118,868	-
18	312 Fire marshall inspections	8,500	8,500	-
19	321 Custodial equipment	40,800	40,800	-
20	330 Grounds upkeep	148,750	148,750	-
21	331 Athletic fields upkeep	42,500	42,500	-
22	340 Maintenance vehicle repairs	17,617	17,617	-
23	350 Pupil activity support	201,625	199,583	(2,042)
24	400 Utilities	3,621,335	3,621,335	-
25	410 Security monitoring	442,712	442,712	-
26	420 Custodial temps	59,500	59,500	-
27	new Internet Service Provider Fees	-	202,000	202,000
		<b>\$ 89,361,916</b>	<b>\$ 92,191,612</b>	<b>\$ 2,829,696</b>



**AGENDA ITEM SUMMARY  
OCONEE COUNTY, SC**

**COUNCIL MEETING DATE:** November 18, 2014  
**COUNCIL MEETING TIME:** 6:00 PM

**ITEM TITLE [Brief Statement]:**

**Third & Final Reading of Ordinance 2014-24 "AN ORDINANCE AUTHORIZING AND DIRECTING THE PROVISION OF COUNTY-FUNDED LEGAL REPRESENTATION, DEFENSE, AND LIMITED INDEMNIFICATION FOR OCONEE COUNTY EMPLOYEES IN CERTAIN LIMITED CIRCUMSTANCES INVOLVING THE DIRECTION AND PERFORMANCE OF OFFICIAL DUTIES, AND OTHER MATTERS RELATED THERETO"**

**BACKGROUND DESCRIPTION:**

This ordinance is designed to cover all county employees who are engaged in their official duties and are sued. The ordinance addresses specifically a gap in South Carolina state law regarding immunity for public officials: An employee[s] can be sued, found innocent and deemed to have acted within their authority; however, attorney fees for their defense in a suit may not be awarded by a judge. This leaves the employee[s] with huge legal fees for their defense when they were acting within the scope of their official duty.

The South Carolina Ethics Commission [SCEC] was asked for an informal opinion at the request of a Council member through the County Attorney to identify the appropriateness of council members voting on an ordinance which they might in the future benefit from. The SCEC's informal opinion was that as the council members are part of a large class, i.e., all Oconee County employees; therefore, as members of a large class they do not need to remove themselves from discussing and voting on the proposed ordinance.

Lastly, this ordinance will NOT cover employees if they are deemed to have acted outside of their official duties by a court of law.

**SPECIAL CONSIDERATIONS OR CONCERNS [only if applicable]:**

None

**FINANCIAL IMPACT [Brief Statement]:**

None

Check Here if Item Previously approved in the Budget. No additional information required.

**Approved by :** \_\_\_\_\_ **Finance**

**COMPLETE THIS PORTION FOR ALL GRANT REQUESTS:**

Are Matching Funds Available: Yes / No

If yes, who is matching and how much:

**Approved by :** \_\_\_\_\_ **Grants**

**ATTACHMENTS**

Ordinance 2014-24

**STAFF RECOMMENDATION [Brief Statement]:**

**Submitted or Prepared By:**

**Approved for Submittal to Council:**

\_\_\_\_\_  
**Department Head/Elected Official**

\_\_\_\_\_  
**T. Scott Moulder, County Administrator**

*Council has directed that they receive their agenda packages a week prior to each Council meeting, therefore, Agenda Items Summaries must be submitted to the Administrator for his review/approval no later than 12 days prior to each Council meeting. It is the Department Head / Elected Officials responsibility to ensure that all approvals are obtained prior to submission to the Administrator for inclusion on an agenda.*

*A calendar with due dates marked may be obtained from the Clerk to Council.*



November 18, 2014

ALAN WILSON  
ATTORNEY GENERAL

Thomas L. Martin, Esquire  
Oconee County Attorney  
c/o McNair Law Firm, P.A.  
Post Office Box 447  
Greenville, SC 29602

Dear Mr. Martin:

Attorney General Alan Wilson has referred your letter dated October 28, 2014 to the Opinions section for a response. The following is this Office's understanding of your question and our opinion based on that understanding.

**Issues** (as quoted from your letter):

*[We seek an] opinion as to the constitutionality and legality of Oconee County Ordinance No. 2014-24 giving indemnification, specifically:*

- 1) Whether or not a county may defend and indemnify public employees in the circumstances denoted in Ordinance 2014-24, should it desire to do so;*
- 2) Whether the means of defending and indemnifying County employees, as set forth in Ordinance 2014-24 is lawful and constitutional;*
- 3) Whether the limits on indemnification set forth in Oconee County Ordinance 2014-24 meet the requirements of avoiding unlimited indemnification as required by South Carolina law and Constitution; and*
- 4) Whether the Ordinance, in all other regards, passes legal and constitutional muster.*

**Law/Analysis:**

This opinion in no way makes a determination as to the constitutionality of the ordinance, as only a court may declare an ordinance unconstitutional. *Ops. S.C. Atty. Gen.*, 1998 WL 485264 (August 9, 1988); 1998 WL 383512 (March 31, 1988); 1988 WL 485247 (March 17, 1988); 1986 WL 289836 (September 15, 1986). This opinion does not address any ethical issues. Moreover, while the ordinance references federal and state law, this opinion only reviews applicable state law. It is this Office's understanding you have already received an informal opinion from the State Ethics Commission regarding any potential ethical issues.

Regarding indemnification at the State level, this Office has consistently stated that the State or one of its agencies must have specific statutory authorization for indemnification. In a 2010 opinion, we noted examples of opinions reaching this conclusion and summarized these opinions as follows:

*... this office has issued several prior opinions holding that, generally, state agencies do not have the authority to enter into indemnification agreements. As stated in an opinion dated September 29, 2004 determining that indemnification agreements "are without legal authority".*

*"[i]t is our longstanding opinion that a state agency possesses no authority to enter into indemnification agreements. It is our further opinion that this conclusion is not changed by the addition of language "so far as the laws of the State permit" or any other language. Because a state agency possesses no authority to enter into indemnification agreements, insertion of the above-cited language or any other language cannot change or alter such lack of authority. Our opinions concluding that a state agency possesses no authority to enter into indemnification or "hold harmless" agreements date back at least to 1966.*

*Another opinion dated September 27, 1972 by former Attorney General McLeod stated that*

*[i]n my opinion, there is no authority for the execution by the State of "hold harmless" clauses. Similar instances occur in nearly all agreements with the federal government and, while such clauses have been inserted in many instances in various agreements, there is, in my opinion, no authority for the inclusion of such clauses. The basis for this position is that the State thereby subjects itself to tort action, for which there is no authority absent legislative authorization. (emphasis added).*

*An opinion of this office dated August 15, 1972 determined that*

*[it] has been the consistent opinion of this Office that governmental agencies, in the absence of specific authority therefor, do not have the authority to execute such "hold harmless" clauses. The basis of this conclusion is that this State possesses sovereign immunity, with certain deviations therefrom in limited circumstances...The execution of a "hold harmless" clause is nothing more nor less than subjection of the State or one of its political subdivisions to tort liability and, in the opinion of this Office, can only be done by the State itself through legislative enactment. (emphasis added).*

*See also: Op. dated February 13, 1968 ("[w]e have uniformly advised State agencies that they do not have authority to enter into indemnification agreements of this nature. Even if entered into, it is questionable if any rights could arise thereunder.").*

*As also stated in the referenced September 29, 2004 opinion, "...we have consistently concluded that a state agency 'derives its powers solely from the statutes created by the Legislature.'" See also: Op. Atty. Gen. dated March 18, 2004 citing Bazzle v. Huff, 319 S.C. 443, 462 S.E.2d 273 (1993) and Nucor Steel v. S.C. Public Service Comm., 310 S.C. 539, 426 S.E.2d 319 (1992). As pointed out by the 1972 opinions referenced above, generally, the State cannot subject itself to tort action "absent legislative authorization" or "in the absence of specific authority therefor."*

Op. S.C. Atty. Gen., 2010 WL 1808721 (April 6, 2010). Furthermore, this Office has also previously opined that a county, like the State, would not likely be able to enter into an indemnification agreement without specific authority. Op. S.C. Atty. Gen., 1991 WL 633070 (November 4, 1991). In that opinion this Office stated:

*We realize that the question you have presented is not whether the County may agree to indemnify a third party; however, as to that limited question, we advise that this Office has previously opined that State agencies, as a general rule, lack authority to enter into open-ended indemnification agreements. Op. [S.C.] Atty. Gen., April 10, 1991. We have no doubt that a similar conclusion would be reached with regard to counties. See Wright v. Colleton County School District, 301 S.C. 282, 391 S.E.2d 564 (1990) [A political subdivision may not waive immunity provisions provided by State law]; see also, S.C. Const. Art. X, Section 8 (1990 Cum.Supp.) [“Monies shall be drawn from ... the treasury of any of [the State’s] political subdivisions only in pursuance of appropriations made by law.”]; Id., Art. X, Section 7(b) [Annual expenditures shall not exceed annual revenues].*

Id.

Against this background, let us review certain rights belonging to a county applicable to this opinion. A county may sue and be sued. S.C. Code § 4-1-10 (1986 & Supp. 2013). A county may execute contracts and do all acts necessarily relating to the property and concerns of the county. Id. A federal court has acknowledged that “[a]lthough a state and its agencies are entitled to Eleventh Amendment immunity, the Eleventh Amendment does not bar suits against local government entities or local government officials sued in their official capacity. Gray v. Laws, 51 F.3d 426, 431 (4th Cir. 1995).” Curry v. S.C., 518 F. Supp.2d 661, 668-669 (D.S.C. 2007).

As stated above, this opinion in no way makes a determination as to the constitutionality of the ordinance, as only a court may declare an ordinance unconstitutional. Ops. S.C. Atty. Gen., 1998 WL 485264 (August 9, 1988); 1998 WL 383512 (March 31, 1988); 1988 WL 485247 (March 17, 1988); 1986 WL 289836 (September 15, 1986). As this Office has previously stated:

*We start with the basic proposition that a county ordinance would be entitled to a presumption of validity. Consistent with Article VIII of the South Carolina Constitution, which mandates Home Rule, a county possesses police power to enact ordinances to further the health and welfare of its residents. See § 4-9-30. As the Supreme Court of South Carolina cautioned in Rothschild v. Richland County Bd. of Adjustment, 309 S.C. 194, 420 S.E.2d 853, 855 (1992), “it is well settled that ordinances, as with other legislative enactments, are presumed constitutional; their unconstitutionality must be proven beyond a reasonable doubt.” A court will not declare an ordinance invalid unless it is clearly in conflict with the general law. Hospitality Assn. of S.C. v. County of Charleston, 320 S.C. 219, 464 S.E.2d 113 (1995). Keeping in mind the presumption of validity and the high standard which must be met before an ordinance is declared invalid, we note that, while this Office may comment upon constitutional problems or a potential conflict with general law, only a court may declare an ordinance void as unconstitutional, or preempted by or in conflict with State law. Accordingly, an ordinance will continue to be enforced unless and until set aside by a court of competent jurisdiction. Op. S.C. Atty. Gen., March 21, 2003 (2003 WL 21043502).*

*In Hospitality Assn., the Court recognized the test for resolving the issue of the validity of a local ordinance vis-a-vis State law. There, the Court stated that:*

*[d]etermining if a local ordinance is valid is essentially a two-step process. The first step is to ascertain whether the county or municipality that enacted the ordinance had the power to do so. If no such power existed, the ordinance is invalid and the inquiry ends. However, if the local government had the power to enact the ordinance, the next step is to ascertain whether the ordinance is inconsistent with the Constitution or general law of this State.*

*Id.*, 464 S.E.2d at 116. The Court referenced § 4-9-25, which provides that:  
*[a]ll counties of the State ... have authority to enact regulations, resolutions, and ordinances ... respecting any subject as appears to them necessary and proper for the security, general welfare, and convenience of counties or for preserving health, peace, order, and good government in them....*

*The Court and this Office recognize that § 4-9-25 provides general police powers to counties. See, e.g., Greenville County v. Kenwood Enterprises, Inc.*, 353 S.C. 157, 164, 577 S.E.2d 428, 431 (2003), overruled on other grounds by *Byrd v. City of Hartsville*, 365 S.C. 650, 620 S.E.2d 76 (2005); *Op. S.C. Atty. Gen.*, September 22, 2008 (2008 WL 4489051). This broad grant of power, noted the Court, “is limited only by the requirement that the regulation, resolution, or ordinance be consistent with the Constitution and general law of this State.” *Hospitality Assn.*, 464 S.E.2d at 116. Moreover, the [...] Court stressed that § 4-9-25 states that “[t]he powers of a county must be liberally construed in favor of the county and the specific mention of particular powers may not be construed as limiting in any manner the general powers of counties.” *Id.*

*Thus, the first question which must be addressed in analyzing whether an ordinance is consistent with State law is the authority of counties to regulate in this area. Put another way, is the ordinance preempted by state law? The test for preemption of local government regulation is set forth in Bugsy's, Inc. v. City of Myrtle Beach*, 340 S.C. 87, 530 S.E.2d 890 (2000), in which the Court stated that:

*[i]n order to preempt an entire field, an act must make manifest a legislative intent that no other enactment may touch upon the subject in any way. Town of Hilton Head Island v. Fine Liquors, Ltd.*, 302 S.C. 550, 397 S.E.2d 662 (1990). In *Fine Liquors, Ltd.*, the Court held, although the General Assembly gave the Alcoholic Beverage Control Commission the sole and exclusive authority to sell beer, wine and alcohol, it had not preempted the field so as to preclude the Town of Hilton Head from passing a zoning ordinance which prohibited internally illuminated “red dot” signs.

*Bugsy's*, 530 S.E.2d at 892.

*Applying the “manifest intention” test, the Court in Bugsy's found that “while the General Assembly has enacted a comprehensive scheme regulating many aspects of video poker machines, the scheme does not manifest an intent to prohibit any other enactment from touching on video poker machines.” Id. ...*

The South Carolina Legislature has addressed the payment of defense of actions against public officers and employees by statute. South Carolina Code Section 1-7-50 states:

In the event that any officer or employee of the State, or of any political subdivision thereof, be prosecuted in any action, civil or criminal, or special proceeding in the courts of this State, or of the United States, by reason of any act done or omitted in good faith in the course of his employment, it is made the duty of the Attorney General, when requested in writing by any such officer or employee, to appear and defend the action or proceeding in his behalf. Such appearance may be by any member of his staff or by any solicitor or assistant solicitor when directed to do so by the Attorney General.

(Emphasis added) (1976 Code, as amended). However, the statute goes on to require an investigation first unless it appears the officer or employee was acting in good faith within the scope of his employment. S.C. Code § 1-7-60 (1976 Code, as amended). This Office stated in a previous opinion concerning this statute:

*As can be seen, § 1-7-50 provides for legal representation by the Attorney General even in criminal matters, if the requisite good faith requirements are met. Former Attorney General McLeod drafted this statute in 1960, and submitted it to the General Assembly, which enacted it that year. In a letter written to the Attorney General of Arkansas on January 13, 1969, General McLeod wrote that “[i]n the past this office, for a number of years and without specific statutory authority, represented officers and employees of the State who were charged criminals as a result of their actions. Thus, in order to alleviate the absence of express statutory authority for such representation, the Attorney General proposed what is now § 1-7-50. In that same letter, General McLeod further advised that:*

*I suggested the enactment of the statute referred to in the belief that officers should not have to undertake the payment of their own expenses in defending actions brought against them for acts done in the performance of their duties.*

Op. S.C. Atty. Gen., 2014 WL 4253409 (August 14, 2014). Therefore, any such ordinance should require good faith and that any action be within the course of employment in order to indemnify.

Regarding tort liability, the South Carolina Legislature expressed its intention in South Carolina Code § 15-78-20 regarding the public policy in this State “that the State, and its political subdivisions, are only liable for torts within the limitations of this chapter and in accordance with the principles established herein.” The statute goes on to grant the State, all political subdivisions and all employees acting within the scope of their official duty immunity from liability and suit for tort other than what is waived in Title 15, Chapter 78. S.C. Code § 15-78-20(b) (1976 Code, as amended). The law states that all other immunities for government entities are preserved and that Chapter 78 is the exclusive civil remedy for torts by government entities and their employees. Id. Therefore, the only liability for torts for political subdivisions of the State and their employees must be within the parameters of Title 15, Chapter 78.<sup>1</sup> South Carolina Code § 15-78-70 gives the exclusive remedy for torts committed by employees of

---

<sup>1</sup> Please note compliance with the South Carolina Tort Claims Act would also include compliance with the South Carolina Insurance Reserve Fund (pursuant to S.C. Code § 1-11-140, et al.) in addition to any other applicable laws and insurance requirements.

government entities as long as the employee's conduct was within the scope of his official duties and was not fraud, actual malice, intent to harm or a crime involving moral turpitude. An action brought against the governmental agency should name the agency or political subdivision as the defendant, not the employee individually, unless it cannot be determined which agency the individual is employed by. S.C. Code § 15-78-70 (1976 Code, as amended). Any person who "may suffer a loss proximately caused by a tort of the State, an agency, a political subdivision, or a governmental entity, and its employee acting within the scope of his official duty" has standing to file a claim under the Tort Claims Act. S.C. Code § 15-78-50(a) (1976 Code, as amended). Moreover, no governmental entity is liable for the tort of one of its employees if the employee, as a "private person" would not himself be liable. S.C. Code § 15-78-50(b) (1976 Code, as amended). One concern in any such ordinance would be that it attempts to expand tort liability outside of the scope of Title 15, Chapter 78. This Office has previously opined that a county council may indemnify a councilman acting within the scope of his official duties done in a good faith. Op. S.C. Atty. Gen., 1987 WL 342727 (November 23, 1987). An employee should not be personally named in a lawsuit for torts committed within the scope of his official duty. S.C. Code § 15-78-70 (1976 Code, as amended).

Furthermore, the Tort Claims Act includes public officials and officers within the definition of an employee for purposes of the Act. S.C. Code § 15-78-30(c) (1976 Code, as amended). While a court has previously defined a public official as a government employee, this may not always be the case. Erickson v. Jones Street Publishers, LLC, 368 S.C. 44, 629 S.E.2d 653 (2006). While this Office is not aware of all the officers and employees the ordinance is attempting to indemnify, a county auditor is appointed by the Governor to a four-year term, and this Office has opined that an auditor holds a public office. See S.C. Code § 12-39-10; Op. S.C. Atty. Gen., 2005 WL 2652384 (September 26, 2005). Moreover, this Office has stated that while an employee of a county may be a public official, an official may not necessary be an employee of a county. Ops. S.C. Atty. Gen., 2013 WL 4636665 (July 26, 2013); 2013 WL 3479875 (June 28, 2013); 1999 WL 397927 (February 17, 1999). While the ordinance designates employees and public officials as "employees," a public official may or may not also be the employee of a county. Id.

Moreover, this Office has issued previous opinions concerning reimbursement of funds. As we stated in a 1997 opinion, neither public funds nor counsel paid for with public funds may be used in a criminal proceeding without specific statutory authorization. Op. S.C. Atty. Gen., 1997 WL 323769 (May 13, 1997). Furthermore, as quoted above, this Office answered a similar question concerning representation of a Retirement Systems Investment Commission member and stated in that opinion:

*As one authority has stated,*

*[t]he purpose of a statute requiring a governmental entity to pay costs or fees incurred by or on behalf of an employee, in defense of a claim or suit for a loss occurring because of acts or omissions within the scope of employee's employment, is to protect office holders from litigation by those dissatisfied with the decisions they make ... In contrast, public officials who pursue or defend personal suits ordinarily must bear their own legal expenses.*

*67 C.J.S. Officers. § 387. Further, as stated in Fillipone v. Mayor of Newton, 352 Mass. 622, 629, 467 N.E.2d 182 (1984), "[a]s a matter of policy, public indemnification of public officials serves in part to encourage public service." Courts have concluded that such indemnification statutes are "'quintessentially remedial legislation," enacted for the benefit of public employees, and thus are "to*

Thomas L. Martin, Esquire  
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November 18, 2014

*be liberally construed to effectuate [their] beneficial purpose." Montgomery County Bd. of Ed. v. Horner, 866 A.2d 909, 919 (Md. 2004).*

Op. S.C. Atty. Gen., 2014 WL 4253409 (August 14, 2014). In the 2014 opinion this Office also cautioned that in most circumstances involving criminal matters, especially where an officer has been indicted by a Grand Jury, indemnification would not be appropriate. *Id.*

**Conclusion:** The proposed ordinance you provided appears to limit indemnification to actions within the scope of an employee's duties and specifically excludes fraud, malice, intent to harm or a crime involving moral turpitude. However, the ordinance does not limit it to civil actions or to actions where no grand jury indicts an employee for criminal conduct. As discussed above, this Office has consistently opined where there has been a grand jury indictment, there is a finding of probable cause that a crime has been committed and would not be considered good faith. Op. S.C. Atty. Gen., 2014 WL 4253409 (August 14, 2014).

Moreover, while your ordinance lists employees and elected officials in its introduction, the body of the ordinance discusses employees generally. This Office has noted some public officials are not employees of a county, even though they work closely with a county. Ops. S.C. Atty. Gen., 2013 WL 4636663 (July 26, 2013); 2013 WL 3479875 (June 28, 2013); 1999 WL 397927 (February 17, 1999).

As we also stated above, while this Office does not have the authority to declare whether the proposed ordinance is constitutional or not, the law is clear indemnification cannot exceed the scope of the South Carolina Tort Claims Act, South Carolina Code Section 1-7-50, or the South Carolina Constitution. See, e.g., S.C. Const. Art. X, § 8 ("Monies shall be drawn from ... the treasury of any of [the State's] political subdivisions only in pursuance of appropriations made by law."); S.C. Cons. Art. X, § 7(b) (Annual expenditures shall not exceed annual revenues). Furthermore, this Office believes that without specific statutory authorization, indemnification cannot be for criminal acts where the accused has been indicted. Nevertheless, this Office presumes any such ordinance is constitutional until declared otherwise by a court. Op. S.C. Atty. Gen., 2013 WL 1803938 (April 18, 2013).

Please note this Office is only issuing a legal opinion based on the current law at this time. Until a court or the Legislature specifically addresses the issues presented in your letter, this is only an opinion on how this Office believes a court would interpret the law in the matter. Additionally, you may also petition the court for a declaratory judgment, as only a court of law can interpret statutes and make such determinations. S.C. Code § 15-53-20, et al. If it is later determined otherwise or if you have any additional questions or issues, please let us know.

Sincerely,



Anita S. Fair  
Assistant Attorney General

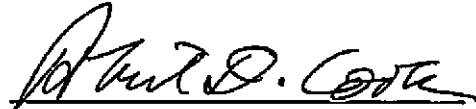


Thomas L. Martin, Esquire

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November 18, 2014

REVIEWED AND APPROVED BY:

A handwritten signature in black ink, appearing to read "Robert D. Cook", written over a horizontal line.

Robert D. Cook  
Solicitor General

*State of South Carolina*  
*State Ethics Commission*

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500 THURMOND MALL, SUITE 250  
COLUMBIA, SC 29201

HERBERT R. HAYDEN, JR.  
EXECUTIVE DIRECTOR

October 7, 2014.

Mr. Thomas L. Martin  
McNair Law Firm, P.A.  
104 South Main Street Suite 700  
Greenville, SC 29601

Re: Request for Informal Opinion

Dear Mr. Martin:

Thank you for your recent request for an informal opinion. An informal opinion is the opinion of the Commission staff based on the State Ethics Commission's prior published opinions; however, an informal opinion is not binding on the Commission. S.C. Code Ann. §8-13-320 (Supp. 2013). The Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991. This opinion is based on the facts as you submitted. Any material deviation from the submitted facts or failure to disclose relevant information will void this opinion. An opinion does not supersede any other statutory or regulatory restrictions which may apply to this situation.

**Issue**

In your letter you state the following:

I recently drafted a proposed Oconee County ordinance, which I will forward to you separately, proposing that the County cover the legal expenses of any county employee sued in relation to their discharge of official duties. The issue arose when a local newspaper quoted an individual, who is being sued by

Oconee County for back taxes, as threatening to bring personal lawsuits against three sitting councilmembers, in their personal capacities. In reviewing the state law on the matter, I realized that while such lawsuits are generally prohibited, or would be converted to suits against the county, the fact remains that the individual employees of the county would still have to bear the legal expense of defending the matters until such time as a court of competent jurisdiction threw the matter out, or converted it. At the request of members of council, I drafted the ordinance, which applies to all county employees sued over discharge of their official duties.

As you will see, the attachment, from an opposed member of council, raises the issue of personal conflict, and recusal. I do not advise members of county council as to their personal ethics issues. The question for which I am requesting an informal opinion, due to time constraints, is whether or not the members of county council would be prohibited from voting on this ordinance, generally, since they would be within the class of covered county employees?

Refining the question even further, the person quoted in the newspaper article specifically threatened to bring lawsuits for "millions of dollars" against certain named members of Oconee County Council (three of the five). Does that change your answer in any regard?

#### Law

#### Section 8-13-100 states in part:

(11)(a) **'Economic Interest'** means an interest distinct from that of the general public in a purchase, sale, lease, contract, option, or other transaction or arrangement involving property or services in which a public official, public member, or public employee may gain an economic benefit of fifty dollars or more.

(b) This definition does not prohibit a public official, public member, or public employee from participating in, voting on, or influencing or attempting to influence an official decision if the only economic interest or reasonably foreseeable benefit that may accrue to the public official, public member, or public employee is incidental to the public official's, public member's, or public employee's position or which accrues to the public official, public member, or public employee as a member of a profession, occupation, or large class to no greater extent than the economic interest or potential benefit could reasonably be foreseen to accrue to all other members of the profession, occupation, or large class.

**Section 8-13-700(B) states in part:**

No public official, public member, or public employee may make, participate in making, or in any way attempt to use his office, membership, or employment to influence a governmental decision in which he, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated has an economic interest. A public official, public member, or public employee who, in the discharge of his official responsibilities, is required to take an action or make a decision which affects an economic interest of himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated shall:

(1) prepare a written statement describing the matter requiring action or decisions and the nature of his potential conflict of interest with respect to the action or decision;

\* \* \*

(4) if he is a public official, other than a member of the General Assembly, he shall furnish a copy of the statement to the presiding officer of the governing body of any agency, commission, board, or of any county, municipality, or a political subdivision thereof, on which he serves, who shall cause the statement to be printed in the minutes and require that the member be excused from any votes, deliberations, and other actions on the matter on which the potential conflict of interest exists and shall cause the disqualification and the reasons for it to be noted in the minutes;

**Discussion**

Section 8-13-700(B) prohibits a public official making, participating in making, or in any way using his official position to influence a government decision in which he, a family member, an individual with whom he is associated or a business with which he is associated has an economic interest. The Commission has reviewed many situations in which the public official has not had to recuse himself because he is a member of a large class.

The cases have tended to deal with council members who are also school district employees or spouses of school district employees and the question posed is whether those council members could vote on the school board appropriation. In AO92-201 the Commission stated "(s)ince the four Council

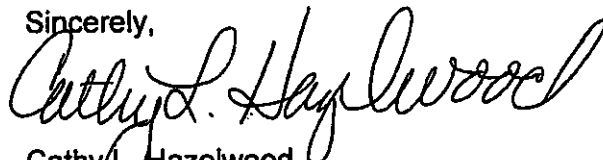
Members are either school district employees or married to a school district employee, their interest is potentially no greater or less than that of all other members of the group of school employees. Therefore, the State Ethics Commission sees no prohibition against the four Council Members participating in the deliberations and votes on the school district budget issue. The members are advised, however, that issues directly affecting their own economic interests to greater extent than other members of the school district employee group will necessitate following the procedures of Section 8-13-700(B)."

The large class exception is just that, an exception to the recusal requirements of Section 8-13-700(B), for public officials. As such, this exception must be reviewed case by case to determine whether a large class exists and whether the economic interest of the public official is greater than that of other members of the class.

Based on information provided it appears that the three council members at issue are members of a large class, i.e. all Oconee County employees; therefore, as members of a large class they do not need to remove themselves from discussing and voting on the proposed ordinance.

Thank you for contacting the State Ethics Commission. If I can be of further assistance in matters within the Commission's jurisdiction, please contact me.

Sincerely,



Cathy L. Hazelwood  
Deputy Director and General Counsel

CLH/

STATE OF SOUTH CAROLINA  
OCONEE COUNTY  
**ORDINANCE 2014-24**

AN ORDINANCE AUTHORIZING AND DIRECTING THE PROVISION OF COUNTY-FUNDED LEGAL REPRESENTATION, DEFENSE, AND LIMITED INDEMNIFICATION FOR OCONEE COUNTY EMPLOYEES IN CERTAIN LIMITED CIRCUMSTANCES INVOLVING THE DIRECTION AND PERFORMANCE OF OFFICIAL DUTIES; AND OTHER MATTERS RELATED THERETO

WHEREAS, Oconee County, South Carolina (the "County"), a body politic and corporate and a political subdivision of the State of South Carolina (the "State"), acting by and through its governing body, the Oconee County Council (the "County Council"), is served by many loyal and dedicated elected officials and employees (collectively, the "Employees"), who diligently carry out the official functions of the County, as established in State law, on a daily basis; and

WHEREAS, in order to ensure that all elected officials and employees of all counties in the State are able to carry out such assigned official duties in a responsible manner, free of fear from personal attack or loss because of and while acting in the scope of their official duties, federal law and South Carolina law both provide extensive protections for such employees, including making such attacks and loss generally subject to sovereign immunity, and generally prohibiting lawsuits attempting to create such loss except when the employee is acting outside of the scope of their official duties; and

WHEREAS, because published threats have recently been made against certain County employees and elected officials, threatening to sue them for financially crippling damages by means and language which would skirt or obviate the protections afforded to such Employees by state and federal law, thereby making such a possibility not merely theoretical, but a threatened reality; and

WHEREAS, a potential gap exists in the statutory protection of County Employees from litigation intended to harm them personally for discharging the official duties of the County, in that defense of such threatened litigation by County Employees, even to the extent necessary to have such litigation dismissed or converted to suit against the County, as prescribed by state law, could nevertheless result in catastrophic financial burden to such Employees; and

WHEREAS, no Employee should ever be intentionally threatened by or exposed to any financial loss, much less intentionally catastrophic financial loss, merely for doing that which is required and mandated by state law, such as, without limitation, the uniform and consistent lawful collection of owed taxes, and because the threat of such loss would be harmful to the official discharge of public duties in any political subdivision, and even chill the willingness to

serve in public office by creating fear of personal damage or loss for simply doing one's duties; and

WHEREAS, because Oconee County recognizes the need to prevent use of threats of potential litigation as coercion or intimidation to deter or chill such discharge of official duties, Oconee County desires to ensure that all County Employees, engaged in the direction or performance of official duties for and on behalf of Oconee County, know that they are protected from such liability or harm, unless and until they lose their immunity and protection from such litigation in accordance with South Carolina law, including, without limitation, §15-78-70, South Carolina Code, 1976, as amended, and so Oconee County Council hereby authorizes and directs the provision of County funded legal representation, defense, and limited indemnification (limited to the extent of actual legal costs incurred by and valid judgments rendered against any County Employee except for conduct outside the scope of his official duties or which constitutes actual fraud, actual malice, intent to harm, or a crime involving moral turpitude) for such Employees, to address costs and risks prior to statutory protection dismissing such litigation, all of which is consistent with defense of other Employees sued for the direction and discharge of their official duties throughout the State.

NOW, THEREFORE, IT IS HEREBY ORDAINED by Oconee County Council, in meeting duly assembled, that:

1. The foregoing preamble, and all statements contained therein, are hereby adopted as findings of fact by Oconee County Council, for purposes of this Ordinance.

2. To the extent that the South Carolina Insurance Reserve Fund or other County carrier fails to provide full coverage of defense, possible judgment, or other related expenses for the defense of any County Employee named as a defendant in litigation related to the direction and performance of official duties (those prescribed by federal or state law, or traditionally and historically carried out by County Employees on behalf of the public of Oconee County), Oconee County shall provide for legal defense of such Employees, with counsel reasonably acceptable to such Employees, and will cover possible judgment or other related expenses related to such representation and defense, unless and until a determination is made by a court of competent jurisdiction that such Employee was acting outside the scope of his or her official duties or engaged in conduct which constitutes actual fraud, actual malice, intent to harm, or a crime involving moral turpitude, all as prescribed by state law, it being the policy of Oconee County to protect County Employees from personal financial damage as a result of directing or performing official duties on behalf of the County, except as otherwise proscribed by state law.

3. Expenses for the representation, defense, and indemnification of County Employees, as prescribed in the foregoing paragraph, shall be paid from general or special reserve funds of the County, or if applicable, from a special insurance policy carried by the County for such purpose.

4. Because the coverage and payment policy prescribed herein is specific to job responsibilities of County Employees, such expenses will be paid by the County as first payment, prior to any personal liability insurance coverage carried by the Employee in question.

5. Any request from a County Employee for use of the coverage prescribed herein will be reviewed and subject to approval by a committee composed of the County Attorney, the Chief Financial Officer of the County, and the Risk Manager of the County, each having an equal vote. A decision by the committee to decline to provide coverage for a County Employee, as prescribed herein, may be appealed to the County Administrator.

6. If the representation and defense policy prescribed herein is approved after public hearing and third and final reading of this Ordinance, such policy will be effective immediately, and will date back to the date of first reading of this Ordinance.

7. Should any part or provision of this Ordinance be deemed unconstitutional or unenforceable by any court of competent jurisdiction, such determination shall not affect the rest and remainder of this Ordinance, all of which is hereby deemed separable.

8. All ordinances, orders, resolutions, and actions of Oconee County Council inconsistent herewith are, to the extent of such inconsistency only, hereby repealed, revoked, and rescinded.

9. This Ordinance shall take effect and be in full force and effect, as of the date of first reading, from and after third reading and enactment by Oconee County Council.

**ORDAINED** in meeting, duly assembled, this 18<sup>th</sup> day of November, 2014.

**ATTEST:**

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Elizabeth Hulse,  
Clerk to Oconee County Council

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Joel Thrift,  
Chairman, Oconee County Council

First Reading:       October 7, 2014  
Second Reading:     October 21, 2014  
Public Hearing:       November 18, 2014  
Third Reading:       November 18, 2014



**AGENDA ITEM SUMMARY  
OCONEE COUNTY, SC**

**COUNCIL MEETING DATE:** November 18, 2014

**COUNCIL MEETING TIME:** 6:00 PM

**ITEM TITLE [Brief Statement]:**

**Second Reading of Ordinance 2014-26** "AN ORDINANCE TO AUTHORIZE THE ACCEPTANCE OF ELECTRONIC SIGNATURES FOR CERTAIN OCONEE COUNTY TRANSACTIONS IN ACCORDANCE WITH THE SOUTH CAROLINA UNIFORM ELECTRONIC TRANSACTION ACT AND TO AUTHORIZE AN ELECTRONIC SIGNATURE POLICY IN ACCORDANCE WITH SECTION 26-6-190(A) OF THE SOUTH CAROLINA CODE OF LAWS; AND OTHER MATTERS RELATED THERETO."

**BACKGROUND DESCRIPTION:**

Proposed ordinance 2014-26 stems from the County's One-Stop-Shop initiative which has been focused on streamlining processes and making government more user friendly overall. Part of the One-Stop-Shop initiative has been the implementation on new permitting software in the Community Development department. The software is cloud based which allows citizens to navigate the County's permitting process online from the comforts of their home or office or from a job site. Part of the permitting processes requires a signature from the applicant. Ordinance 2014-26 establishes procedures related to the acceptance of electronic signatures. Ordinance 2014-26 will not only apply to the Community Development department. This ordinance establishes electronic signature policies for all County operations. Having these procedures in place is crucial as the County moves forward with the One-Stop-Shop program and as the County transitions to operating in a digital environment in order to best serve the citizens of Oconee County.

**SPECIAL CONSIDERATIONS OR CONCERNS [only if applicable]:**

None

**FINANCIAL IMPACT [Brief Statement]:**

Check Here if Item Previously approved in the Budget. No additional information required.

Approved by : \_\_\_\_\_ Finance

**COMPLETE THIS PORTION FOR ALL GRANT REQUESTS:**

Are Matching Funds Available: Yes / No

If yes, who is matching and how much?

Approved by : \_\_\_\_\_ Grants

**ATTACHMENTS**

None

**STAFF RECOMMENDATION [Brief Statement]:**

It is staff's recommendation that Council take second reading of Ordinance 2014-26.

**Submitted or Prepared By:**

**Approved for Submittal to Council:**

JOSH STEPHENS

Department Head/Elected Official

\_\_\_\_\_  
T. Scott Moulder, County Administrator

*Council has directed that they receive their agenda packages a week prior to each Council meeting; therefore, Agenda Items Summaries must be submitted to the Administrator for his review/approval no later than 12 days prior to each Council meeting. It is the Department Head / Elected Officials responsibility to ensure that all approvals are obtained prior to submission to the Administrator for inclusion on an agenda.*

*A calendar with due dates marked may be obtained from the Clerk to Council.*

STATE OF SOUTH CAROLINA  
OCONEE COUNTY  
**ORDINANCE 2014-26**

**AN ORDINANCE TO AUTHORIZE THE ACCEPTANCE OF ELECTRONIC SIGNATURES FOR CERTAIN OCONEE COUNTY TRANSACTIONS IN ACCORDANCE WITH THE SOUTH CAROLINA UNIFORM ELECTRONIC TRANSACTION ACT AND TO AUTHORIZE AN ELECTRONIC SIGNATURE POLICY IN ACCORDANCE WITH SECTION 26-6-190(A) OF THE SOUTH CAROLINA CODE OF LAWS; AND OTHER MATTERS RELATED THERETO.**

**WHEREAS**, Oconee County, South Carolina (the "County"), is a body politic and corporate and a political subdivision of the State of South Carolina (the "State"), acting by and through the Oconee County Council (the "County Council"); and,

**WHEREAS**, it has come to the attention of the County Council that State law, by and through Section 26-6-10, et. seq. of the South Carolina Code of Laws, 1976, *as amended* (the "Code"), known as the *Uniform Electronic Transactions Act* (the "UETA"), authorizes counties to allow for electronic signatures to be accepted by the County for certain transactions; and,

**WHEREAS**, on February 28, 2007, the South Carolina Budget and Control Board promulgated the South Carolina Standards for Electronic Signatures (the "SC Standards for Electronic Signatures"), attached hereto as Exhibit A, which were created in an effort to comply with the purpose and intent of the UETA; and,

**WHEREAS**, acceptance of documents filed and signed electronically is beneficial to citizens and businesses interacting with local governments by permitting them to submit documents electronically rather than by hand delivery, overnight delivery or mailing, and is environmentally friendly in that it eliminates the need for the presentation of multiple paper copies of documents; and,

**WHEREAS**, the County Council therefore deems it to be in the best interests of the health, safety, welfare and convenience of the citizens and businesses with which the County interacts, to establish a mechanism for acceptance of certain documents filed electronically and bearing electronic signatures; and,

**WHEREAS**, due to the aforementioned, the County Council finds that there is a need to authorize the acceptance of electronic signatures for certain transactions, to consent to the standards set forth in the SC Standards for Electronic Signatures, which may be amended by the South Carolina Budget and Control Board from time to time, and to provide for the adoption of policies and procedures in accordance with Section 26-6-190(A) of the Code:

**NOW, THEREFORE**, it is hereby ordained by the Oconee County Council, in meeting duly assembled, that:

1. The County hereby adopts and consents to the SC Standards for Electronic Signatures, as may be amended by the South Carolina Budget and Control Board from time to time, for use by the County in the implementation and application of this Ordinance, including, without limitation, through the Ordinance section immediately following this one. The current SC Standards for Electronic Signatures document is attached hereto as Exhibit A to this Ordinance, and it is hereby incorporated by reference as fully as if set forth verbatim herein.
2. The County will accept the following documents submitted electronically, and bearing electronic signatures, as provided in the preceding section of this Ordinance: Applications for rezoning, zoning permit, conditional use permit, special exception variance, planned unit development and other changes in the permitted use of a parcel of real property; Applications for site plan approval; Applications for building permit or other permit related to the improvement of real property; Applications, preliminary plats and other documents pertaining to the subdivision of a parcel of real property; Applications for encroachment permits; Any documents included within any of the foregoing applications, such as but not limited to boundary surveys, affidavits, engineering drawings, and sketches of legal descriptions. The County may request, in its sole discretion, additional documentation related to the foregoing documents, to be submitted, signed or sealed electronically. The Oconee County Administrator is authorized to determine and specify additional documents which may or must be submitted in electronic format with electronic signature, as provided herein, and the Oconee County Administrator shall maintain a list of all documents which are required or authorized to be submitted to the County in such format.
3. The Oconee County Administrator shall determine acceptable technologies and vendors consistent with industry best practices to ensure County adherence to SC Standards for Electronic Signatures and the security and integrity of the data received, retained, and used by the County.
4. The County Administrator is hereby authorized and directed to take any and all actions required of the County, or that he may deem desirable in his sole discretion, to give effect to the acts of the County Council as contemplated herein. This ordinance shall be codified in the Oconee County Code of Ordinances.
5. Should any part or provision of this Ordinance be deemed unconstitutional or unenforceable by any court of competent jurisdiction, such determination should not affect the rest and remainder of this Ordinance, all of which is hereby deemed separable.

6. All ordinances, orders, resolutions, and actions of the County Council inconsistent herewith are, to the extent of such inconsistency only, hereby repealed, revoked, and rescinded. However, nothing contained herein, or in Exhibit A, shall cancel, void, or revoke, or shall be interpreted as cancelling, voiding, or revoking in any regard any prior County acts, actions, or decisions of the County or the County Council, in any regard, except as explicitly and specifically stated herein.
7. All other terms, provisions, sections, and contents of the Code of Ordinances not specifically affected hereby shall remain in full force and effect.
8. This Ordinance shall take effect, and be in full force and effect, from and after the third reading and the public hearing and enactment by the County Council in accordance with the County Code.

Ordained in meeting, duly assembled, this \_\_\_\_ day of \_\_\_\_\_, 2014.

**ATTEST:**

\_\_\_\_\_  
Elizabeth Hulse,  
Clerk to Oconee County Council

\_\_\_\_\_  
Joel Thrift,  
Chairman, Oconee County Council

First Reading:           October 21, 2014 [title only]  
Second Reading:       November 18, 2014  
Third Reading:           \_\_\_\_\_  
Public Hearing:           \_\_\_\_\_

Exhibit A  
to  
Ordinance 2014-26

**South Carolina**  
Enterprise Architecture

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**Uniform Electronic  
Transactions Act**

**SC Standards  
for Electronic Signatures**

February 28, 2007



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## 1.0 Standards

### 1.1 Applicability and Scope

#### **Background**

The standards promulgated in this document were created in an effort to comply with the purpose and intent of the Uniform Electronic Transactions Act (UETA - S.C. Code Ann. 26-6-10 et seq.). South Carolina Code Section 26-6-190 of UETA, entitled Development of standards and procedures; service of process, states, in part:

The South Carolina State Budget and Control Board shall adopt standards to coordinate, create, implement, and facilitate the use of common approaches and technical infrastructure, as appropriate, to enhance the utilization of electronic records, electronic signatures, and security procedures by and for public entities of the State. Local political subdivisions may consent to be governed by these standards.

#### **Applicability**

As UETA states in S.C. Code Section 26-6-190, the standards set forth in this document are applicable to all State government entities including agencies, boards, commissions, colleges and universities. Local government entities may, at their option, consent to be governed by these standards. Model procedures for the use of electronic records, electronic signatures, and security procedures for private commercial transactions and contracts may be developed, implemented and facilitated by the Secretary of State. Such model procedures addressed in this document may prove applicable for this purpose.

#### **Scope**

The UETA does not require State government entities to utilize electronic records or electronic signatures. The extent that State government entities do use such records or signatures, they are subject to these standards (UETA, S.C. Code Section 26-6-180). The purpose of this document is to define the responsibilities and procedures to be used by State government entities when establishing and implementing electronic signatures with regard to the authentication, security, non-repudiation and integrity of such electronic signatures and the electronic records which are to be considered as signed.

#### **Development, Periodic Review and Updating of these Standards**

In November 2005, the State Budget and Control Board established a Task Force composed of subject matter experts from a number of state agencies to develop the standards set forth herein. This Task Force submitted its recommendations to the State's Architecture Oversight Committee (AOC) for review, evaluation and adoption. The AOC submitted final recommendations to the State Budget and Control Board, which shall be responsible for maintaining and updating these standards on an ongoing basis. The Task Force has been converted to an UETA Advisory Committee to provide ongoing comments, feedback and advice in this effort.

The Architecture Oversight Committee (AOC), by requiring these standards, does not state or provide the means of funding the assessment, establishment, implementation, or operation of electronic signatures or the electronic transactions which use electronic signatures.

## 1.2 Applicability to Transactions

The Uniform Electronic Transactions Act (UETA) defines an electronic signature as “an *electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.*” This broad definition becomes problematic when considering the possible types of electronic records as defined by UETA. An electronic record is “a record created, generated, sent, communicated, received, or stored by *electronic means*.” This definition includes not only database records and network-based or web-based data exchanges, but also emails, fax transmissions, voice mails, PDA communications, tape backups and so on. Fax transmissions, voice mails, PDA communications, and tape backups are out of the scope of these standards.

There are four important parts to an electronic signature: 1) an electronic sound, symbol, process, etc. which is unique to the signer; 2) the agreement, either implied or explicit, by both parties to accept an electronic sound, symbol, process, etc. as a valid signature; 3) the intent to sign the record and 4) the action of applying the electronic signature to a specific document or record. These are discussed in greater detail below.

The phrase in UETA “with the intent to sign the record” presupposes that a signature is desired. Fortunately, not all types of electronic records require an electronic signature, nor do they require one to be permanently stored. By their nature, many electronic records do not require a signature, as no contractual, financial or confidential information is being exchanged. Other electronic records, such as a PDF created from a signed paper document, fulfill the requirements of an electronic signature as an intrinsic part of their structure.

The presence of an electronic signature presumes the originality of the record that has been signed. Electronic records must have an authoritative version, which may be treated as an original record, whether or not there are multiple copies of that record. To clarify further, during progressive processing of an electronic record, any information that is added or changed must create a new version of the record, to which the original signature no longer applies. This new record may be stored as (a) separate, duplicate or ancillary record(s). The version to be treated as an original signed version may not change. The new record may in turn be signed, creating a new, separately verifiable electronic signature.

## 1.3 Standards for Electronic Signatures

**All programs implemented by State government entities which utilize electronic signatures shall meet the following conditions.** The degree to which these conditions are met will vary by program, as dictated by law or regulation, by risk to the program, or by desire of the participants. Later sections will discuss each of these conditions in greater detail.

**Use of signature unique to the signer:** The electronic signature must uniquely identify the signer, and must be under reasonable control of the signer. That is, it must be unlikely that any other unauthorized entity provided the signature.

**Agreement by the parties:** A party signs a document in order to convey a mutually understood message to another party, such as authorship, receipt, or approval of the document. In the case of an electronic signature, both the signer and the intended recipient of the signed document must agree, either explicitly or implicitly, that the



electronic sound, symbol, or process will serve as a signature for the electronic document or record.

**Intent to sign:** The application of the electronic signature to the electronic record must be an intentional act. Intent can be determined by the contents of the document or record and the facts and circumstances surrounding the transaction.

**Association of the signature with the signed record:** The electronic signature must be physically or logically associated with the electronic record that is signed, and that association must persist for as long as the signature is in effect, which may be the life of the record.

The degree to which each of the above conditions is met is dependent on several factors normally associated with security concerns:

- **Authentication:** the ability to prove that the actual signer is the intended signer,
- **Non-Repudiation:** the inability of the signer to deny the signature, and
- **Integrity:** the assurance that neither the record nor the signature has been altered since the moment of signing.

However, it is important not to confuse the strength of the electronic signature with the strength of the security surrounding a given transaction. For example, an electronic record signed with a digital signature utilizing public key infrastructure (PKI) may be transmitted without authorization over an unsecured network, while a record signed with a weak password may be transmitted in encrypted format over a highly secured line.

Note that this standard does not deny or supersede the implementation standards established by law, regulation, or qualified body for any specific program, such as an IRS / State program or a program governed by HIPAA regulations. Rather, this standard for South Carolina governmental entities is intended to provide a framework for such program specific standards, and to provide governance where no such external standards are in place.

#### 1.4 Use of Signature Unique to the Signer

The electronic sign, symbol, or process serving as the electronic signature must uniquely identify the person, business, agency, or system which is the signer of the electronic record, and be under the reasonable control of that party. The most commonly used form of identification in electronic transactions is the Personal Identification Number (PIN) or password, either assigned arbitrarily to the party by a service provider or self-selected by the party, and used in conjunction with a unique user identification. This PIN or password serves as an electronic signature either by being entered in response to a request to sign a transaction, or by the party's executing an action with intent to sign, while authenticated by the PIN or password. The longer and more complex (use of alpha, numeric, and special characters) the PIN or password is, the less likely that it can be replicated by an unauthorized party. However, the uniqueness of the PIN or password to a given party is still dependent on the security measures taken by the party. The strongest password loses any characteristic of authentication or non-repudiation if it is posted on a sticky note in plain view.

For an individual signer, the strongest form of electronic signature is based on some inherent physical characteristic of the person. A digitized version of a hand-written signature is the simplest example of this class. More sophisticated biometric signatures, such as a digitized fingerprint, retinal scan, or voice print, require more costly technology not readily available at time of this writing to the general public.

For a business, agency, or computer system, the most secure form of electronic signature requires the application of a public/private key pair, often referred to as Public Key Infrastructure (PKI). The business acquires a digital certificate from a Certificate Authority, and installs it on a computer system under secured control. The business or agency utilizes its uniquely assigned private key to sign an electronic record, and the electronic signature generated by this process becomes an intrinsic part of the electronic record. While a digital certificate can be assigned to an individual, this is not general practice, in part because a household computer system is generally shared by multiple parties.

The nature of the sound, symbol, or action to be utilized by a South Carolina agency in a program requiring electronic signatures will depend on several factors. One is the risk to the program of unauthorized or repudiated transactions, and the likelihood of the need to verify the signature in a contested context, such as a court of law. This risk must be balanced against factors of cost and availability of the means of signing for the intended population of signers. A technology which is cost justifiable for a bounded, controlled population such as agency employees or a small, known constituent base, may not be feasible for an unknown and unbounded general public.

It must be noted that while the signing party bears primary responsibility for maintaining control of the means of creating the electronic signature, the recipient of the electronic signature also bears a responsibility to protect the signature on behalf of the signer. For example, an agency that issues PINs or supports PIN self selection must protect those PINs from access by parties who might make unauthorized use of them.

### **1.5 Agreement by the Parties**

For an electronic signature to be valid, both the signing party and the recipient party must agree that the sound, symbol, or process will in fact serve as a signature for the electronic record in question. This agreement may be either formal or informal, and can be determined from the context and surrounding circumstances, including the conduct of the parties. In the business world, electronic commerce is generally established between two parties by means of a Trading Partner Agreement (TPA). The Trading Partner Agreement (TPA) establishes the normal terms and conditions under which the transactions may occur; it sets forth the terms required by the nature of the electronic transaction; and it defines what will constitute a signature if electronic record(s) are to be generated and signed in the course of the transaction. Partners must understand what aspects of an electronic signature are to be implemented, and must understand their responsibility in working with, recognizing and preserving the electronic signature and the associated electronic record(s). In the context of two governmental agencies, whether both agencies are at the state level or at differing federal, state, or local levels, such an agreement is often known as a Memorandum of Understanding or MOU.

For governmental programs involving the general business community or individual constituents, it is not reasonable for an agency to negotiate separate agreements with each party. In this case, the agreement is generally issued unilaterally by the agency through legislation, regulation, or program documentation. Participation in the program by the business or individual party then constitutes acceptance of the agreement and of the program parameters. In all cases, however, there should be advance notice that a sound, symbol, or process generated by the business or individual will be considered to be a valid electronic signature for an electronic record. The simplest form of such notice, in the context of an online transaction, may be wording or a pop-up box on the screen explaining that a subsequent action will be considered to be an act of signing.

### **1.6 Intent to Sign**

There can be no electronic signature without the intention to execute or adopt the sound, symbol or process for purposes of signing the related document or record. There is a sequential

relationship between the agreement by the parties and the act of signing: there is agreement that a certain action will create or serve as an electronic signature, and then that action is intentionally executed. An electronic signature may be created by the signing party or on behalf of a party by an authorized agent, including an electronic agent.

In order to reduce the uncertainty regarding the intent to sign, there should be a prior agreement (or notification) that the execution of the transaction will constitute a signature, followed by the action itself executed with intent to sign. For example, the intent to sign may be demonstrated by a simple mouse click in an online transaction, in response to an on-screen notification that the action will constitute an act of signing. In this case, the signer is generally logged onto an application using credentials such as a user identification and PIN or password, and those credentials may become logically associated with the transaction record to constitute the electronic signature. However, it must be noted that, without the requisite intent to sign, merely executing an online transaction while authenticated by means of certain credentials does not in itself constitute an act of signing, even if those credentials can be associated with the transaction record.

An expression of intent to sign may cover multiple applications of an electronic signature; for example, a system may be programmed to apply a digital signature to all electronic records of a certain type.

### **1.7 Association of the Signature with the Signed Record**

An electronic signature has value only in the context of an electronic record. It may signify that an electronic record is acknowledged or approved, that its contents are agreed to, or that the record is authentic. In the case of the record of a transaction, it may signify that the transaction was properly authorized. The value lies in the ability to verify the signature, and therefore reaffirm its significance to the electronic record, at a later date. For this reason, the electronic signature must be physically or logically associated with the electronic record for the lifetime of the electronic record.

Corollary to this requirement is the assumption that neither the electronic record nor the electronic signature itself is altered during this timeframe. A program utilizing electronic signatures should therefore implement appropriate security measures at both the originator of the signature and the recipient of the signature to prevent unauthorized alteration to either the electronic record or the electronic signature. The nature of these measures may be dictated by external governance, as in the case of an IRS or HIPAA program. If the application of security is at the discretion of the participating South Carolina agency or agencies, then the nature of the security measures should be commensurate to the risk and consequences of unauthorized alteration. A risk assessment should be performed early in the development of the program, in order to determine appropriate security measures to protect the electronic record and electronic signature both during transactions and in subsequent storage.

The simplest of these measures is to ensure that access controls are in place to prevent unauthorized access to modify or delete the electronic record and electronic signature. Stronger measures include the use of unalterable media such as write-once, read many (WORM) disks to store the electronic record and electronic signature. One of the strongest detection measures is the use of digital signatures, where an algorithmic hash of the electronic record is encrypted using the private key of the signer. In this case any alteration to the electronic record by a party not in possession of this private key will invalidate the digital signature, because the digital signature, when decrypted with the signer's public key, will not yield the hash of the altered record.

## 2.0 Examples

The standard for electronic signatures for South Carolina governmental agencies does not dictate the use of any specific technologies or authorize any specific models for implementation. This is done for two reasons: first, because the array of technologies and implementation models for the use of electronic signatures is extremely large, and would not provide useful guidance for all situations, and secondly so that the technology-neutral standard will not require modification or become invalidated by the invention or adoption of future technology. However, in order to provide some measure of guidance, the following examples of the use of electronic signatures are offered as illustration of the standard.

### 2.1 Digitized Human Signature

A digitized signature is a graphical image of a handwritten signature. Some applications require an individual to create his or her handwritten signature using a special computer input device, such as a digital pen and pad. The digitized representation of the entered signature may then be compared to a previously-stored copy of a digitized image of the handwritten signature. If special software judges both images comparable, the signature is considered valid. This application of technology shares the same security issues as those using the PIN or password approach, because the digitized signature is another form of shared secret known both to the user and to the system. The digitized signature can be more reliable for authentication than a password or PIN because there is a biometric component to the creation of the image of the handwritten signature. Forging a digitized signature can be more difficult than forging a paper signature since the technology digitally compares the submitted signature image with the known signature image, and is better than the human eye at making such comparisons. The biometric elements of a digitized signature, which help make it unique, are in measuring how each stroke is made (duration, pen pressure, etc.). As with all shared secret techniques, compromise of a digitized signature image or characteristics file could pose a security (impersonation) risk to users.

### 2.2 Online Tax Filing

The South Carolina Department of Revenue (DOR) offers a web-based application to allow individuals to file their Individual Income Tax returns online. Users are authenticated by means of a pre-assigned PIN which is sent by the DOR to the taxpayer's address of record. At the conclusion of the filing transaction, the user is presented with a "jurat" (Latin for "been sworn") affirming that the information is true and accurate. The user is then prompted to re-enter the PIN as a signature to the jurat and thus the return. By re-entering the PIN, the taxpayer accepts the agreement for that PIN to serve as an electronic signature, and indicates an intent to sign. This use of the PIN therefore constitutes a valid electronic signature.

By contrast, DOR also offers a web-based application to allow businesses to file their Sales and Use Tax returns online. The user must be authenticated by means of a user identification and self-selected PIN prior to utilizing the application. However, the application does not present any jurat to the taxpayer or ask for re-entry of the PIN, nor does it state at any time that any subsequent action will be considered as an act of signing. For this reason, although the online filing is legal and binding, and although proper authentication is required, the transaction is not considered to have been signed.

### 2.3 Federal / State Tax Filing

When a taxpayer files an electronic income tax return using commercial software such as TurboTax ® or utilizes a paid preparer such as H&R Block, both the federal and state tax returns

are transmitted to the IRS. The IRS, in turn, splits off the state returns and transmits them to the participating states.

The electronic returns are signed by various means, as part of the transaction between the taxpayer and the tax preparer or host of the commercial software, and subsequently the IRS. The DOR considers those returns to be signed, even though the signatures are not verified on receipt by the DOR. This example serves to illustrate the difference between electronic signatures and transactional security. There are a number of security measures in place governing the transactions between the DOR and IRS to retrieve the South Carolina tax returns. However, the authentication of these transactions has nothing to do with the original taxpayers' electronic signatures which are associated with the transmitted electronic records.

## 3.0 Additional Considerations for Electronic Signatures

### 3.1 Risk Assessment

**Risk Assessment:** A risk assessment should be performed to determine the best means of implementing electronic signatures and the level of security for the type of program. This assessment should take into consideration the following issues:

- The nature and value of the data and records in the transactions. Differing types of data and records will have different requirements. Data and records which fall under HIPAA requirements, for example, will have much stricter requirements than some other types of data and records.
- The susceptibility of the transaction's data to fraud. Some data will be of a higher profile, and possibly more susceptible to fraud than other types of data.
- The type of communication for the transactions.
- The security of the systems which host the transaction processes and data.
- The reliability of the systems which host the transaction processes and data.
- The consequences of successful fraud for participants, their organizations and the system(s).
- The role and authority of the user base, especially on those systems where there are multiple levels of authorization on the data.
- The existing technology base and the cost of technology.
- The required level of confidence in establishing the users' identity.
- The required level of communication integrity.
- The required level of record integrity.
- The required level of non-repudiation for records.

**Risk Mitigation Plan:** After the possible risks have been identified, a risk mitigation plan must be created. This plan will ensure that for all known risks, action will or can be taken to resolve the risk, mitigate the risk, or have a contingency for the risk. Critical risks should be resolved fully prior to proceeding with the implementation. The risk mitigation process should be fully documented.

### 3.2 Additional Features

There are several additional implementation features of electronic signatures that are not included in the South Carolina standard (as defined in section 1), as they may not apply to all implementations.

These features can fulfill specific business requirements in certain types of business transactions. In some cases, they mimic the process that exists when working with paper documents.

- **Continuity of signature capability:** The ability to ensure that public awareness of the means or technology used to create or apply an electronic signature, such as the identification of the algorithm utilized, does not compromise the ability of the signer to apply additional secure signatures at a later date.
- **Countersignatures:** The capability to prove the order of application of signatures. This is analogous to the normal business practice of countersignatures, where a party signs a document that has already been signed by another party. In an electronic signature, the

issue of record originality must be considered, especially if a copy of the record(s) is made during the process of applying a countersignature.

- **Independent verifiability:** The capability to verify a party's signature (electronic record or digitized signature) without the cooperation of the signer.
- **Interoperability of Electronic Signature Technology:** The assurance that applications, systems or other electronic components used during phases of communication between trading partners and/or between internal components of an entity, are able to read and correctly interpret the transaction information communicated from one to the other.
- **Multiple signatures:** The capability of multiple parties to sign an electronic record, document or transaction. Conceptually, multiple signatures are simply appended to the document or record. Depending upon the implementation, the issue of originality may arise.
- **Data Transportability:** The ability of a signed document to be transported over an insecure network to another system, while maintaining the integrity of the document, including content, signatures, signature attributes, and (if present) document attributes.

## 4.0 Definitions

**AOC:** The Architecture Oversight Committee is the governing body of the South Carolina Enterprise Architecture.

**Authentication:** The use of passwords, tokens (such as smart cards), digital certificates or biometrics to verify that an entity is the one claimed.

**Authorization:** The process of granting an entity permission to do or have something, or of verifying that permission at time of action.

**Ciphertext:** The representation of encrypted information. This text may be viewable, but requires decoding. For example, a decryption algorithm is required to convert the ciphertext back into plaintext or its original form.

**Credential:** A credential is a set of data used for user/system authentication, which is established during a registration process, is stored in an identity management system, and is retrieved for comparison during an authentication process. In some cases, a credential is as simple as a login id and password. Examples of more complex credentials include digital certificates, electronic profiles of a user, a One-Time-Password device, a hardware token, or a biometric device (with the storage of biometric information for a user).

**Digital Certificate:** A digital certificate is an electronic record issued to a properly authenticated individual or organization by a Certificate Authority (CA). The digital certificate contains a mathematically related pair of encryption keys assigned uniquely to the individual or organization. The "public key" is published by the CA, so that any party may use it to encrypt data intended for the individual or organization. The "private key" must be kept secured by the individual or organization, and is used to encrypt data which can only come from the individual or organization. The digital certificate is installed on a computer system or server controlled by the individual or organization, and is utilized by various communication services, such as web browsers and communication protocols, to perform encryption and decryption services.

**Digital Signature:** A digital signature is an electronic record created by the mathematical operation of a private encryption key on an electronic record or document. A short record or "digest" is created from the original record or document. The digest is then encrypted with the private key to create the digital signature. The digital signature is generally appended to the document or record for transmission. A digital signature may be verified by the receiving party by decrypting it with the sender's public key, and then comparing the resulting short record with the digest of the transmitted record or document. Digital signatures are considered among the strongest forms of electronic signature for two reasons: 1) they can only be created by an entity's private key, so they are difficult to repudiate, and 2) they are based on a mathematical reduction of the original record or document, so that they cannot be validated if the transmitted record or document is altered in any way.

**DOR:** Department of Revenue



<p><b>Electronic Agent:</b> An <u>electronic signature</u> may be created by an electronic agent on behalf of a person. An electronic agent may take the form of software that performs automated processes. An application which accepts <u>electronic signatures</u> from an individual may also need to be configured to authenticate and authorize electronic agents, and to record an <u>electronic signature</u> with the electronic agent as the signer. Note that a computer application may also create an <u>electronic signature</u> on its own behalf, without reference to any specific person.</p>
<p><b>Electronic Record:</b> A <u>record</u> created, generated, sent, communicated, received or stored by electronic means.</p>
<p><b>Electronic Signature:</b> Means an electronic sound, symbol, or process attached to or logically associated with a <u>record</u> and executed or adopted by a person with the intent to sign the <u>record</u>.</p>
<p><b>Embedding:</b> The inclusion or linking of <u>electronic signature</u> elements into the <u>electronic record</u> to which the signature applies.</p>
<p><b>Encryption:</b> The transformation of confidential plaintext or other information into <u>ciphertext</u> to protect it. An encryption algorithm combines plaintext with other values called keys, or ciphers, so the data becomes unintelligible. Once encrypted, data can be stored or transmitted. Decrypting data reverses the encryption algorithm process and makes the plaintext available for further processing.</p>
<p><b>HIPAA:</b> Health Insurance Portability and Accountability Act (Pub.L. 104-191, Aug. 21, 1996)</p>
<p><b>Integrity:</b> The means to ensure that data is complete and unaltered despite aging, transmission, duplication, migration, <u>encryption</u>, decryption or restoration.</p>
<p><b>IRS:</b> Internal Revenue Service</p>
<p><b>Jurat:</b> Latin for "been sworn". It pertains to not just affirming the signature is yours but also to swearing the information represented is true and accurate.</p>
<p><b>Non-repudiation (or non-reputable records):</b> A security feature under which the origin of data cannot be denied, and can be proven to an independent third party.</p>
<p><b>Password:</b> The confidential <u>authentication</u> information composed of a string of alpha-numeric and / or special characters, whose specific requirements may vary by application, used during an <u>authentication</u> process.</p>
<p><b>PDA:</b> Personal Digital Assistant (e.g., a Palm Pilot or other handheld electronic equivalent)</p>

**PDF:** Portable Document Format. A electronic format to convey the image of a document. It is often viewed with Acrobat Reader.

**PIN:** Personal Identification Number

**PKI:** Public Key Infrastructure

**Record:** Information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

**UETA:** Uniform Electronic Transactions Act. (S.C. Code Ann. Section 26-6-10 et seq.)

<http://www.scstatehouse.net/code/tit126.htm>

**WORM:** Write Once Read Many. A type of data storage that when once the data is stored, the data cannot be changed.

**AGENDA ITEM SUMMARY  
OCONEE COUNTY, SC**

COUNCIL MEETING DATE: November 18, 2014  
COUNCIL MEETING TIME: 6:00 PM

**ITEM TITLE [Brief Statement]:**

**First Reading of Ordinance 2014-28 "AN ORDINANCE AMENDING CHAPTER 32 AND CHAPTER 38 OF THE OCONEE COUNTY CODE OF ORDINANCES, IN CERTAIN LIMITED REGARDS AND PARTICULARS ONLY, REGARDING HEIGHT RESTRICTIONS FOR STRUCTURES LOCATED IN ZONED INDUSTRIAL DISTRICTS AND FOR STRUCTURES LOCATED IN AREAS DESIGNATED BY OCONEE COUNTY AS COUNTY INDUSTRIAL PARKS; AND OTHER MATTERS RELATED THERETO."**

**BACKGROUND DESCRIPTION:**

Proposed ordinance 2014-28 stems from a desire to ensure Oconee's land use regulations take into account the evolving needs of industrial development. Rapid technological advances are allowing companies to design and build facilities that ensure increased operational efficiencies. Ordinance 2014-28 will increase allowable height for property zoned in the Industrial District and for County Industrial Parks. Ordinance 2014-28 will help ensure that Oconee County maintains it competitive edge when recruiting new industry and when working with existing industry.

**SPECIAL CONSIDERATIONS OR CONCERNS (only if applicable):**

None

**FINANCIAL IMPACT [Brief Statement]:**

Check Here if Item Previously approved in the Budget. No additional information required.

Approved by : Finance

**COMPLETE THIS PORTION FOR ALL GRANT REQUESTS:**

Are Matching Funds Available: Yes / No  
If yes, who is matching and how much:

Approved by : Grants

**ATTACHMENTS**

Ordinance 2014-28

**STAFF RECOMMENDATION [Brief Statement]:**

It is staff's recommendation that Council  
[1] take first reading of Ordinance 2014-28, and  
[2] forward to the Planning Commission for consideration/recommendation to be returned before Council's December 2, 2014 regular meeting.

Submitted or Prepared By:

Approved for Submittal to Council:

\_\_\_\_\_  
Department Head/Elected Official

\_\_\_\_\_  
T. Scott Moulder, County Administrator

*Council has directed that they receive their agenda packages a week prior to each Council meeting, therefore, Agenda Items Summaries must be submitted to the Administrator for his review/approval no later than 12 days prior to each Council meeting. It is the Department Head / Elected Officials responsibility to ensure that all approvals are obtained prior to submission to the Administrator for inclusion on an agenda.*

*A calendar with due dates marked may be obtained from the Clerk to Council.*

# OCONEE COUNTY PLANNING COMMISSION

415 South Pine Street - Walhalla, SC



TEL (864) 638-4218 FAX (864) 638-4168

Date: November 18, 2014

To: Chairman Thrift, Members of County Council, Mr. Moulter, and Ms. Hulse

From: Planning Commission

Re: Ordinance 2014-28

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The Planning Commission voted, unanimously, on November 17, 2014, to recommend that County Council approve Ordinance 2014-28 as it is currently written.

Thank you for your consideration.

STATE OF SOUTH CAROLINA  
COUNTY OF OCONEE  
**ORDINANCE 2014-28**

**AN ORDINANCE AMENDING CHAPTER 32 AND CHAPTER 38 OF THE OCONEE COUNTY CODE OF ORDINANCES, IN CERTAIN LIMITED REGARDS AND PARTICULARS ONLY, REGARDING HEIGHT RESTRICTIONS FOR STRUCTURES LOCATED IN ZONED INDUSTRIAL DISTRICTS AND FOR STRUCTURES LOCATED IN AREAS DESIGNATED BY OCONEE COUNTY AS COUNTY INDUSTRIAL PARKS; AND OTHER MATTERS RELATED THERETO.**

**WHEREAS**, Oconee County, South Carolina (the “County”), a body politic and corporate and a political subdivision of the State of South Carolina (the “State”), acting by and through its governing body, the Oconee County Council (the “County Council”), has adopted multiple ordinances for the effective, efficient governance of the County, which, subsequent to adoption, are codified in the Oconee County Code of Ordinances (the “Code of Ordinances”), as amended, from time to time; and

**WHEREAS**, the County, acting by and through the County Council, is authorized by Section 4-9-30(9) and Chapter 29 of Title 6 of the South Carolina Code, 1976, as amended, among other sources, to impose land use restrictions and development standards in the unincorporated areas of the County; and,

**WHEREAS**, Chapter 32 of the Code of Ordinances contains terms, provisions and procedures applicable to performance standards in the County; and

**WHEREAS**, Chapter 38 of the Code of Ordinances contains terms, provisions and procedures applicable to zoning in the County; and

**WHEREAS**, County Council recognizes that there is a need to revise the law of the County to meet the changing needs of the County and that there is a need to amend, specifically, certain sections of Chapter 32 and Chapter 38 of the Code of Ordinances to increase allowable height for property zoned in Industrial Districts and for property located in those industrial parks designated by the County as County Industrial Parks (“County Industrial Parks”) in order to take into account the evolving needs of industrial development, including the rapid technological advances that allow companies to design and build facilities that ensure increased operational efficiencies, and to ensure that the County maintains its competitive edge when recruiting new industry and when working with existing industry; and

**WHEREAS**, County Council has therefore determined to modify Chapters 32 and 38 of the Code of Ordinances, and to affirm and preserve all other provisions of the Code of Ordinances not specifically or by implication amended hereby.

**NOW, THEREFORE**, it is hereby ordained by the Oconee County Council, in meeting duly assembled, that:

1. Section 32-605 of Chapter 32 of the Code of Ordinances, entitled *Requirements*, is hereby revised, rewritten, and amended to read as set forth in Attachment A, which is attached hereto and hereby incorporated by reference as fully as if set forth verbatim herein.

2. Section 32-606 of Chapter 32 of the Code of Ordinances, entitled *Exemptions*, is hereby revised, rewritten, and amended to read as set forth in Attachment B, which is attached hereto and hereby incorporated by reference as fully as if set forth verbatim herein.

3. Section 38-9.4 of Chapter 38 of the Code of Ordinances, entitled *Height*, is hereby revised, rewritten, and amended to read as set forth in Attachment C, which is attached hereto and hereby incorporated by reference as fully as if set forth verbatim herein.

4. Section 38-10.11 of Chapter 38 of the Code of Ordinances, entitled *Industrial district (ID)*, is hereby revised, rewritten, and amended to read as set forth in Attachment D, which is attached hereto and hereby incorporated by reference as fully as if set forth verbatim herein.

5. County Council hereby declares and establishes its legislative intent that Attachments C and D, hereto, as may perhaps be amended from time to time, become the applicable zoning provisions of the County with regard to the sections amended by Attachments C and D, from and after their adoption, states its intent to so adopt Attachments C and D, and directs that a public hearing thereon be undertaken by County Council or the Oconee County Planning Commission, in accord with and as required by Section 6-29-760 and by Section 4-9-130, South Carolina Code, 1976, as amended.

6. Should any part or provision of this Ordinance be deemed unconstitutional or unenforceable by any court of competent jurisdiction, such determination shall not affect the rest and remainder of this Ordinance, all of which is hereby deemed separable.

7. All ordinances, orders, resolutions, and actions of County Council inconsistent herewith are, to the extent of such inconsistency only, hereby repealed, revoked, and rescinded. However, nothing contained herein, or in the Attachments hereto, shall cancel, void, or revoke, or shall be interpreted as cancelling, voiding, or revoking in any regard any prior performance standard, zoning or rezoning acts, actions, or decisions of the County or County Council, in any regard.

5. All other terms, provisions, and parts of the Code of Ordinances, and specifically, Sections 32-605 and 32-606 of Chapter 32 and Sections 38-9.4 and 38-10.11 of Chapter 38, not amended hereby, directly or by implication, shall remain in full force and effect.

6. This Ordinance shall take effect and be in full force and effect from and after third reading and enactment by County Council, and will apply to all zoning processes initiated after first (1<sup>st</sup>) reading hereof. All processes actually initiated by submitting a properly and legally completed petition to the County, at a minimum, prior to first (1<sup>st</sup>) reading of this ordinance and the establishment of the pending ordinance doctrine thereby, shall be completed under the zoning and performance standard rules and regulations of Chapters 32 and 38 of the Code of Ordinances, as in effect prior to final adoption of this ordinance.

**ORDAINED** in meeting, duly assembled, this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**ATTEST:**

\_\_\_\_\_  
Elizabeth Hulse,  
Clerk to Oconee County Council

\_\_\_\_\_  
Joel Thrift,  
Chairman, Oconee County Council

First Reading:            November 18, 2014  
Second Reading:        \_\_\_\_\_  
Third Reading:            \_\_\_\_\_  
Public Hearing:            \_\_\_\_\_

## Attachment A

### Sec. 32-605. - Requirements.

All proposed Structures not specifically exempted by this article that are greater than 65 feet in height, or otherwise subject to the exemptions found in Sec. 32-606(19) and (20) and greater than 199 feet in height, shall be subject to review and approval by the Oconee County Board of Zoning Appeals only as a special exception. In addition to the requirements for special exceptions established in chapter 32, article I of this Code, as amended, the board shall issue findings on each of the following criteria:

- (1) Projected traffic and ability of existing roadways to accommodate the increase caused by the proposed structure.
- (2) Anticipated cost of any specialized emergency response equipment and training required to serve the proposed Structure.
- (3) Potential noise, light, fumes, shadows, obstruction of air flow, and other negative secondary effects caused by the proposed Structure that may impact existing uses and/or adjacent properties.
- (4) The aesthetic and cultural character of the environs, specifically regarding any potential degradation by the proposed structure of scenic views, historic sites, significant landmarks, and other sensitive areas.
- (5) Appropriateness of proposed Structure in relation to the character of the community.



## Attachment B

### Sec. 32-606. - Exemptions.

The following Structures shall be exempt from the standards governing height established by this article:

- (1) Belfries.
- (2) Chimneys.
- (3) Church spires.
- (4) Communication towers (to include amateur radio antennas).
- (5) Conveyors.
- (6) Cooling towers.
- (7) Cupolas.
- (8) Domes.
- (9) Elevator bulkheads.
- (10) Fire towers.
- (11) Flag poles.
- (12) Ornamental towers and spires.
- (13) Public monuments.
- (14) Public utility poles.
- (15) Silos.
- (16) Skylights.
- (17) Smoke stacks.
- (18) Stage towers or scenery lofts.
- (19) Structures, not otherwise exempt by this section, that are 200 feet or less in height, and located on property zoned as an Industrial District (ID) in accordance with Chapter 38 of the Oconee County Code of Ordinances.

(20) Structures, not otherwise exempt by this section, that are 200 feet or less in height, and located on property designated by Oconee County as County Industrial Parks.

Such features shall be erected only to such height as is necessary to accomplish the purpose they are intended to serve and no height extension shall serve as a dwelling place for human habitation.

This section shall in no way exempt any structure from the application of standards or regulations contained in other chapters of this Code or other articles of this chapter, including, without limitation, any standards or regulations regarding height restrictions for certain areas of Oconee County, such as airport approach height restrictions.

## Attachment C

### Sec. 38-9.4. - Height.

(a) The height of a building or structure shall be measured according to methods provided for in adopted building codes. The height of a tree shall be measured as the distance from the ground at the base to the highest point of vegetation.

(b) The height limitations of this chapter shall not apply to the following:

- (1) Belfries.
- (2) Chimneys.
- (3) Church spires.
- (4) Conveyors.
- (5) Cooling towers.
- (6) Cupolas.
- (7) Domes.
- (8) Elevator bulkheads.
- (9) Fire towers.
- (10) Flag poles.
- (11) Ornamental towers and spires.
- (12) Public monuments.
- (13) Public utility poles.
- (14) Silos.
- (15) Skylights.
- (16) Smoke stacks.
- (17) Stage towers or scenery lofts.

**(18) Structures, not otherwise exempt by this section, that are 200 feet or less in height, and located on property zoned as an Industrial District (ID) in accordance with Chapter 38 of the Oconee County Code of Ordinances.**

**(19) Structures, not otherwise exempt by this section, that are 200 feet or less in height, and located on property designated by Oconee County as County Industrial Parks.**

**Such features shall be erected only to such height as is necessary to accomplish the purpose they are intended to serve and no height extension shall serve as a place for human habitation.**

**This section shall in no way exempt any structure from the application of standards or regulations contained in other chapters of this Code or other articles of this chapter, including, without limitation, any standards or regulations regarding height restrictions for certain areas of Oconee County, such as airport approach height restrictions.**

**(c) Communication towers, antennas, and water tanks shall be exempt from district height requirements in these standards, but shall instead be subject to standards provided for in the Oconee County Unified Performance Standards Chapters of the Oconee County Code of Ordinances; however, all other district dimensional standards shall apply as specified.**

## Attachment D

Sec. 38-10.11. - Industrial district (ID).

*Title:* Industrial district.

*Definition:* Those areas suited for light and/or heavy industries.

*Intent:* The intent of this district is to provide for the industrial and commercial needs of Oconee County while protecting other uses from potential negative impacts associated with such activities.

*Dimensional requirements:\**

ID District	Minimum District Size		Minimum District Buffer			Max. Height
		10 Acres		50 feet		
Nonresidential Uses (interior lots)	Minimum Lot Size		Minimum Yard Requirements			Max. Height
	Min. Lot Size	Min. Width (ft.)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)	Structure Height (ft.)
	½ acre (21,780 sf)	90	30	10	15	200

**AGENDA ITEM SUMMARY**  
**OCONEE COUNTY, SC**

COUNCIL MEETING DATE: November 18, 2014  
COUNCIL MEETING TIME: 6:00 PM

**ITEM TITLE [Brief Statement]:**

**First Reading Ordinance 2014-29** *[in title only]* "AN ORDINANCE AUTHORIZING (1) THE EXECUTION AND DELIVERY OF A FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT BY AND BETWEEN OCONEE COUNTY, SOUTH CAROLINA (THE "COUNTY") AND A COMPANY IDENTIFIED FOR THE TIME BEING AS **PROJECT SARAH**, ACTING FOR ITSELF, AND/OR ONE OR MORE AFFILIATES OR OTHER PROJECT SPONSORS (THE "COMPANY"), PURSUANT TO WHICH THE COUNTY SHALL COVENANT TO ACCEPT CERTAIN NEGOTIATED FEES IN LIEU OF AD VALOREM TAXES WITH RESPECT TO THE ESTABLISHMENT AND/OR EXPANSION OF CERTAIN FACILITIES IN THE COUNTY (COLLECTIVELY, THE "PROJECT"); (2) THE BENEFITS OF A MULTI-COUNTY INDUSTRIAL OR BUSINESS PARK TO BE MADE AVAILABLE TO THE COMPANY AND THE PROJECT; (3) CERTAIN SPECIAL SOURCE REVENUE CREDITS IN CONNECTION WITH THE PROJECT; AND (4) OTHER MATTERS RELATING THERETO."

**First & Final Reading Resolution R2014-18** "A RESOLUTION AUTHORIZING (1) THE EXECUTION AND DELIVERY OF A FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT BY AND BETWEEN OCONEE COUNTY, SOUTH CAROLINA (THE "COUNTY") AND A COMPANY IDENTIFIED FOR THE TIME BEING AS **PROJECT SARAH**, ACTING FOR ITSELF, AND/OR ONE OR MORE AFFILIATES OR OTHER PROJECT SPONSORS (THE "COMPANY"), PURSUANT TO WHICH THE COUNTY SHALL COVENANT TO ACCEPT CERTAIN NEGOTIATED FEES IN LIEU OF AD VALOREM TAXES WITH RESPECT TO THE ESTABLISHMENT AND/OR EXPANSION OF CERTAIN FACILITIES IN THE COUNTY (COLLECTIVELY, THE "PROJECT"); (2) THE BENEFITS OF A MULTI-COUNTY INDUSTRIAL OR BUSINESS PARK TO BE MADE AVAILABLE TO THE COMPANY AND THE PROJECT; (3) CERTAIN SPECIAL SOURCE REVENUE CREDITS IN CONNECTION WITH THE PROJECT; AND (4) OTHER MATTERS RELATING THERETO."

**First Reading Ordinance 2014-30** *[in title only]* "AN ORDINANCE AUTHORIZING AND APPROVING (1) DEVELOPMENT OF A JOINT COUNTY INDUSTRIAL AND BUSINESS PARK PURSUANT TO SECTION 4-1-170 OF THE CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED, IN CONJUNCTION WITH PICKENS COUNTY (THE "PARK"), SUCH PARK TO BE, AT THE TIME OF ITS INITIAL DEVELOPMENT, GEOGRAPHICALLY LOCATED IN OCONEE COUNTY AND TO INCLUDE CERTAIN PROPERTY NOW OR TO BE HEREAFTER OWNED AND/OR OPERATED BY A COMPANY IDENTIFIED FOR THE TIME BEING AS **PROJECT SARAH**; (2) THE EXECUTION AND DELIVERY OF A WRITTEN PARK AGREEMENT WITH PICKENS COUNTY AS TO THE REQUIREMENT OF PAYMENTS OF FEE IN LIEU OF *AD VALOREM* TAXES WITH RESPECT TO PARK PROPERTY AND THE SHARING OF THE REVENUES AND EXPENSES OF THE PARK; (3) THE DISTRIBUTION OF REVENUES FROM THE PARK WITHIN OCONEE COUNTY; AND (4) OTHER MATTERS RELATED THERETO."

*Council has directed that they receive their agenda packages a week prior to each Council meeting, therefore, Agenda Items Summaries must be submitted to the Administrator for his review/approval no later than 12 days prior to each Council meeting. It is the Department Head / Elected Officials responsibility to ensure that all approvals are obtained prior to submission to the Administrator for inclusion on an agenda.*

*A calendar with due dates marked may be obtained from the Clerk to Council.*

**BACKGROUND DESCRIPTION:**

Ordinance 2014-29 and inducement resolution R2014-18 puts into place a fee-in-lieu-of-taxes agreement (FILOT) between Oconee County and Project Sarah. The company will locate this capital investment in Oconee as part of this incentive offered from the County.

Ordinance 2014-30 expands the multi-county park to include the property associated with Project Sarah.

**SPECIAL CONSIDERATIONS OR CONCERNS [only if applicable]:**

N/A

**FINANCIAL IMPACT [Brief Statement]:**

Check Here if Item Previously approved in the Budget. No additional information required.

Approved by: \_\_\_\_\_ Finance

**COMPLETE THIS PORTION FOR ALL GRANT REQUESTS:**

Are Matching Funds Available? Yes / **No**

If yes, who is matching and how much:

Approved by: \_\_\_\_\_ Grants

**ATTACHMENTS****STAFF RECOMMENDATION [Brief Statement]:**

It is the staff's recommendation that Council

- [1] Approve Ordinance 2014-29 on first reading in title only,
- [2] Approve Ordinance 2014-30 on first reading in title only, and
- [3] Approve Resolution R2014-18 on first and final reading, all as presented.

Submitted or Prepared By:



Approved for Submittal to Council:

Department Head/Elected Official

T. Scott Moulder, County Administrator

*Council has directed that they receive their agenda packages a week prior to each Council meeting, therefore, Agenda Items Summaries must be submitted to the Administrator for his review/approval no later than 12 days prior to each Council meeting. It is the Department Head/Elected Officials responsibility to ensure that all approvals are obtained prior to submission to the Administrator for inclusion on an agenda.*

*A calendar with due dates marked may be obtained from the Clerk to Council.*

STATE OF SOUTH CAROLINA  
OCONEE COUNTY  
**RESOLUTION R2014-18**

A RESOLUTION AUTHORIZING (1) THE EXECUTION AND DELIVERY OF A FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT BY AND BETWEEN OCONEE COUNTY, SOUTH CAROLINA (THE "COUNTY") AND A COMPANY IDENTIFIED FOR THE TIME BEING AS PROJECT SARAH, ACTING FOR ITSELF, AND/OR ONE OR MORE AFFILIATES OR OTHER PROJECT SPONSORS (THE "COMPANY"), PURSUANT TO WHICH THE COUNTY SHALL COVENANT TO ACCEPT CERTAIN NEGOTIATED FEES IN LIEU OF AD VALOREM TAXES WITH RESPECT TO THE ESTABLISHMENT AND/OR EXPANSION OF CERTAIN FACILITIES IN THE COUNTY (COLLECTIVELY, THE "PROJECT"); (2) THE BENEFITS OF A MULTI-COUNTY INDUSTRIAL OR BUSINESS PARK TO BE MADE AVAILABLE TO THE COMPANY AND THE PROJECT; (3) CERTAIN SPECIAL SOURCE REVENUE CREDITS IN CONNECTION WITH THE PROJECT; AND (4) OTHER MATTERS RELATING THERETO.

WHEREAS, Oconee County, South Carolina (the "County"), acting by and through its County Council (the "Council"), is authorized and empowered under and pursuant to the provisions of the Code of Laws of South Carolina 1976, as amended (the "Code"), particularly Title 12, Chapter 44 of the Code (the "Negotiated FILOT Act") and Title 4, Chapter 1 of the Code (the "Multi-County Park Act" or, as to Section 4-1-175 thereof, and, by incorporation Section 4-29-68 of the Code, the "Special Source Act") (collectively, the "Act") and by Article VIII, Section 13(D) of the South Carolina Constitution: (i) to enter into agreements with certain investors to construct, operate, maintain, and improve certain projects through which the economic development of the State of South Carolina (the "State") will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate and remain in the State and thus utilize and employ the manpower, agricultural products, and natural resources of the State; (ii) to covenant with such investors to accept certain fee in lieu of *ad valorem* tax ("FILOT") payments, including, but not limited to, negotiated FILOT payments made pursuant to the Negotiated FILOT Act, with respect to a project; (iii) to permit investors to claim special source revenue credits against their FILOT payments ("Special Source Credits") to reimburse such investors for expenditures in connection with infrastructure serving the County and improved or unimproved real estate and personal property, including machinery and equipment, used in the operation of a manufacturing or commercial enterprise in order to enhance the economic development of the County ("Special Source Improvements"); and (iv) to create, in conjunction with one or more other counties, a multi-county industrial or business park in order to afford certain enhanced income tax credits to such investors and to facilitate the grant of Special Source Credits; and

WHEREAS, a company identified for the time being as Project Sarah, acting for itself and/or one or more affiliates or other project sponsors, in accordance with the Act (the "Company") proposes to establish and/or expand certain facilities at one or more locations in the County (the "Project"); and



WHEREAS, the Company anticipates that, should its plans proceed as expected, the Project will generate substantial investment and job creation in the County; and

WHEREAS, on the basis of the information supplied to it by the Company, the County has determined, *inter alia*, that the Project would subserve the purposes of the Act and would be directly and substantially beneficial to the County, the taxing entities of the County and the citizens and residents of the County due to the investment to be made, or caused to be made, and the jobs to be created, or caused to be created, by the Company, all of which contributes to the tax base and the economic welfare of the County, and, accordingly, the County wishes to induce the Company to undertake the Project by offering certain negotiated FILOT and multi-county industrial or business park benefits as well as the benefits of certain Special Source Credits as set forth herein, all of which shall be further described and documented in a Fee in Lieu of Tax and Incentive Agreement to be entered into by the County and the Company (the "Incentive Agreement").

NOW, THEREFORE, BE IT RESOLVED by the Council, as follows:

Section 1. As contemplated by Section 12-44-40(I) of the Negotiated FILOT Act, the County makes the following findings and determinations:

- (a) The Project will constitute a "project" within the meaning of the Negotiated FILOT Act; and
- (b) The Project, and the County's actions herein, will subserve the purposes of the Negotiated FILOT Act; and
- (c) The Project is anticipated to benefit the general public welfare of the State and the County by providing services, employment, recreation, or other public benefits not otherwise provided locally; and
- (d) The Project gives rise to no pecuniary liability of the County or incorporated municipality or a charge against its general credit or taxing power; and
- (e) The purposes to be accomplished by the Project are proper governmental and public purposes; and
- (f) The benefits of the Project are greater than the costs; and
- (g) The Project will have a substantial public benefit.

Section 2.

(a) The County hereby agrees to enter into the Incentive Agreement with the Company, whereby the Company will agree to satisfy, or cause to be satisfied, certain investment requirements with respect to the Project within certain prescribed time periods in accordance with the Negotiated FILOT Act and the County, under certain conditions to be set forth in the Incentive Agreement, will agree to accept negotiated fee in lieu of *ad valorem* tax ("Negotiated FILOT") payments with respect to the Project.

(b) (i) The Negotiated FILOT shall be determined using: (1) an assessment ratio of 6%, (2) the lowest millage rate or millage rates allowed with respect to the Project pursuant to Section 12-44-50(A)(1)(d) of the Negotiated FILOT Act, which millage rate or millage rates shall be fixed pursuant to Section 12-44-50(A)(1)(b)(i) of the Negotiated FILOT Act for the full term of the Negotiated FILOT; (3) the fair market value of the Project, determined in accordance with the Negotiated FILOT Act; and (4) ~~and~~ such other terms and conditions as will be specified in the Incentive Agreement, including, without limitation, that the Company, in its sole discretion, may dispose of property and replace property subject to Negotiated FILOT payments to the maximum extent permitted by the Negotiated FILOT Act.

(ii) The Negotiated FILOT shall be calculated as provided in this Section 2(b) for that portion of the Project consisting of economic development property under the Negotiated FILOT Act. For each annual increment of investment in such economic development property, the annual Negotiated FILOT payments shall be payable for an aggregate payment period of forty (40) years, which period shall be comprised of an initial period of thirty (30) years and an automatic extension period of ten (10) years (based on the requisite County findings, to be set forth in the Incentive Agreement), all in accordance with Section 12-44-21 of the Negotiated FILOT Act. Accordingly, if such economic development property is placed in service during more than one year, each year's investment shall be subject to the Negotiated FILOT for a payment period of forty (40) years, if the conditions of the Incentive Agreement are met.

Section 3. The County will use its best commercially reasonable efforts to insure that the Project will be included, if not already included, and will remain, during the term of the incentives described herein, within the boundaries of a multi-county industrial or business park pursuant to the provisions of the Multi-County Park Act and Article VIII, Section 13(D) of the State Constitution on terms which provide the Company and the Project with any and all additional jobs creation tax credits afforded by the laws of the State for projects located within multi-county industrial or business parks and on terms which facilitate the Special Source Credits referenced in Section 4 hereof.

Section 4. As an additional incentive to induce the Company to undertake the Project, and as reimbursement for investment in Special Source Improvements and subject to the requirements of the Special Source Act, the County does hereby agree that the Company shall be entitled to receive, and the County shall provide, Special Source Credits against each FILOT payment, including, but not limited to, each Negotiated FILOT payment, made with respect to the Project in a manner and amount, and for a period of time, as shall be set forth in greater detail in the Incentive Agreement. In accordance with the Special Source Act, the Special Source Credits authorized herein shall not, in the aggregate, exceed the aggregate cost of Special Source Improvements funded from time to time in connection with the Project.

Section 5. The provisions, terms, and conditions of the Incentive Agreement shall be subject to approval by subsequent Ordinance of the Council. The Incentive Agreement is to be in substantially the form customarily used by the County for similar transactions with such changes therein as shall be approved by said Ordinance.

Section 6. The Chairman of the Council, the County Administrator, and the Clerk to Council, for and on behalf of the County, are hereby each authorized, empowered, and directed

to do any and all things necessary or proper to effect the performance of all obligations of the County under and pursuant to this Resolution.

Section 7. The execution and delivery of the Incentive Agreement is subject to the enactment by the Council of an ordinance authorizing the same and, in conjunction therewith, compliance with the provisions of the Home Rule Act regarding the procedural requirements for enacting ordinances.

Section 8. All orders, resolutions, and parts thereof in conflict herewith are to the extent of such conflict, only, hereby repealed. No act or action previously undertaken pursuant to authority valid at the time shall be considered revoked by this Resolution however. This Resolution shall take effect and be in full force upon adoption by the Council.

Done in meeting duly assembled November 18, 2014

OCONEE COUNTY, SOUTH CAROLINA

By: \_\_\_\_\_  
Joel Thrift, Chairman, County Council  
Oconee County, South Carolina

[SEAL]

Attest:

By: \_\_\_\_\_  
Elizabeth G. Hulse, Clerk to County Council  
Oconee County, South Carolina

STATE OF SOUTH CAROLINA  
OCONEE COUNTY  
**RESOLUTION R2014-17**

**A RESOLUTION DECLARING THE RESULTS OF A REFERENDUM HELD ON NOVEMBER 4, 2014, ON THE QUESTION OF THE IMPOSITION OF A ONE PERCENT CAPITAL PROJECTS SALES AND USE TAX IN THE COUNTY OF OCONEE, SOUTH CAROLINA; AND OTHER MATTERS RELATED THERETO.**

**WHEREAS**, §4-10-300, *et seq.*, of the Code of Laws of South Carolina, 1976, as amended (the "Code"), entitled the *Capital Projects Sales Tax Act* (the "Act"), provides that a governing body of a county may impose a one percent capital projects sales and use tax ("Capital Projects Sales Tax") by ordinance, subject to a duly-noticed referendum, within the county area for a specific purpose or purposes and for a limited amount of time; and,

**WHEREAS**, the County of Oconee, South Carolina (the "County"), a body politic and corporate and a political subdivision of the State of South Carolina, acting by and through its County Council, authorized the imposition of the Capital Projects Sales Tax, subject to the approval of the qualified electors in the County voting in a referendum on November 4, 2014, to generate revenues which would have been used to fund or defray the costs of certain defined capital improvements within the County; and,

**WHEREAS**, Oconee County Council, in accordance with §4-10-330 of the Act, desires to certify the results of the referendum, and hereby does so.

**NOW, THEREFORE**, be it resolved by Oconee County Council, in a meeting duly assembled, that:

**Section 1. Results of Referendum.** In accordance with §4-10-330 of the Act, Oconee County Council, as the governing body of Oconee County, South Carolina, hereby finds, determines and certifies:

A. That pursuant to Ordinance 2014-14, adopted on July 15, 2014, Oconee County Council authorized a referendum to be held in the County on November 4, 2014 (the "Referendum"), for the purpose of submitting to the qualified electors of the County the following question:

Must a special one percent sales and use tax be imposed in Oconee County, South Carolina (the "County") for not more than eight (8) years from the date of imposition to raise the amounts specified for the following purposes (including the costs of designing, constructing, improving, renovating, equipping, furnishing thereof, and acquiring any land necessary therefor) and, further, must the County be authorized to issue and sell, either as a single issue or as several separate issues, general obligation bonds (the "Bonds") of the County in the

aggregate principal amount of not exceeding \$36,464,760 to pay for costs of the projects set forth below and pledge such sales and use taxes to the payment of the principal of and interest on the Bonds; provided, in the event such sales and use taxes are inadequate for the payment of the Bonds, the full faith, credit and taxing power of the County shall be pledged for the payment of the Bonds?

1. \$7,700,000 Oconee County Library, Seneca Branch;
2. \$1,150,000 Northern Economic Development Waterline Extension Project which is anticipated to consist of the installation and extension of water lines and related infrastructure from Park Avenue to Alexander Road along Highway 11, and from Park Avenue to Highway 11 along SC Route 130;
3. \$11,000,000 Oconee County Indoor Recreation / Aquatic Center which is anticipated to consist of an indoor aquatic center, fitness center and multi-purpose open space for programs;
4. \$6,705,000 Foothills Agricultural Resource & Marketing Center which is anticipated to consist of an open air arena, farmers market, cannery, livestock barn and parking;
5. \$1,300,000 Oconee County Library, Westminster Branch;
6. \$4,374,280 Golden Corner Community Center/Library which is anticipated to consist of an Oconee County Library branch, YMCA Satellite division, gymnasium, cannery and meeting rooms;
7. \$736,200 Salem Recreation & Senior Center which is anticipated to consist of a gymnasium and ancillary facilities.
8. \$2,034,280 Oconee County Library, Salem Branch;
9. \$1,040,000 Oconee County Library, Walhalla Branch; and
10. \$425,000 Oconee Heritage Center Multi Site Renovations which is anticipated to consist of the main museum facility located in Walhalla, the historic Westminster General Store and the historic Center Church located in Fairplay.

**INSTRUCTIONS TO VOTERS:** All qualified electors desiring to vote in favor of imposing the sales and use tax for the stated purposes and authorizing the issuance and sale of the Bonds as described above shall vote "YES", and all qualified electors

desiring to vote against imposing the sales and use tax for the state purposes and authorizing the issuance and sale of the Bonds as described above shall vote "NO".

YES \_\_\_\_\_

NO \_\_\_\_\_

B. That the Oconee County Election Commission's Statement and Return of Voters for the Oconee County General Election, held on November 4, 2014, a copy of which is attached hereto as Exhibit A, and is hereby incorporated herein as fully as if set forth verbatim herein, has been presented to Oconee County Council certifying the total votes in favor of the Capital Projects Sales Tax and the total votes opposed to the Capital Projects Sales Tax.

C. That a majority of those voting in the Referendum voted against imposing the Capital Projects Sales Tax.

D. That the Referendum was duly and properly held in accordance with the laws of the State of South Carolina.

Section 2. Challenge to Result of Referendum. In accordance with §4-10-330(F) of the Act, the results of the Referendum, as declared by this resolution, are not open to question except by a suit or proceeding instituted within thirty (30) days from the effective date of this resolution.

Section 3. Effective Date. This resolution shall be effective immediately upon its adoption.

Section 4. Repeal and Rescission. All orders, resolutions, and parts thereof in conflict herewith are to the extent of such conflict, only, hereby repealed. No act or action previously undertaken pursuant to authority valid at the time shall be considered revoked by this Resolution however.

**APPROVED AND ADOPTED** this \_\_ day of \_\_\_\_\_, 2014.

**OCONEE COUNTY, SOUTH CAROLINA**

By: \_\_\_\_\_  
Joel Thrift, Chairman of County Council,  
Oconee County, South Carolina

ATTEST:

By: \_\_\_\_\_  
Elizabeth G. Hulse, Clerk to County Council  
Oconee County, South Carolina

# PROCUREMENT - AGENDA ITEM SUMMARY

OCONEE COUNTY, SC

COUNCIL MEETING DATE: November 18, 2014

## ITEM TITLE:

**Title: Professional Services from Davis & Floyd, Inc. for continuation of services for Road Improvements in Stone Pond Subdivision**  
**Department(s): Stone Pond Special Tax District** **Amount: 318,865.00**

## FINANCIAL IMPACT:

- Procurement was approved by Council per Ordinance 2012-28 (Aug. 16, 2012)  
This ordinance creates a Special Tax District that allows fees to be collected annually over a ten year period from all residents of the Stone Pond Subdivision. These fees will be used to reimburse the County for the actual cost of the improvements to this subdivision.

## BACKGROUND DESCRIPTION:

Stone Pond Subdivision has an internal private road system that serves as access to property within the subdivision. A special tax district was created to pay for improving roads within the subdivision to meet current Oconee County public road standards, with the exception of Devonhurst Drive. Devonhurst Drive will be improved as part of the project; however, at the choice of the property owners along Devonhurst Drive, the improvements will not be equal to Oconee County public road standards and therefore will not be considered for acceptance for maintenance by Oconee County at the conclusion of the project.

At the March 20, 2012 meeting, Council approved the award of RFP 11-15 for On Call Engineering Services to Davis & Floyd, Inc., of Greenwood, SC for Category C: On Call Roadway & Bridge Services. The Roads & Bridges Department now wishes to contract with Davis & Floyd to provide engineering services to improve roads in the Stone Pond Subdivision. Services provided include: topographic survey, field investigation, geotechnical exploration, road and storm drainage design, permitting, utility coordination, developing project specifications, bidding and construction administration, replacement of property corners, as-built survey, and full time inspection services.

The project was at a stand-still for several months due to easement issues on foreclosure properties. Those issues have been resolved, and we are requesting Council approval to resume the professional services work.

## ATTACHMENT(S):

1. Ordinance 2012-28
2. Detailed project proposal, scope and timeline from Davis & Floyd, Inc.

## STAFF RECOMMENDATION:

It is the staff's recommendation that Council approve the not to exceed professional services fee of \$318,865.00 to Davis & Floyd, Inc., of Greenwood, SC.

Submitted or Prepared By: \_\_\_\_\_ Approved for Submittal to Council: \_\_\_\_\_  
**T. Scott Moulder, County Administrator**

*Council has directed that they receive their agenda packages a week prior to each Council meeting, therefore, Agenda Items Summaries must be submitted to the Administrator for his review/approval no later than 12 days prior to each Council meeting. It is the Department Head / Elected Officials responsibility to ensure that all approvals are obtained prior to submission to the Administrator for inclusion on an agenda.*

*A calendar with due dates marked may be obtained from the Clerk to Council.*

# DAVIS & FLOYD

SINCE 1954

November 13, 2014

D. Mack Kelly, Jr., PE, PLS, CFM  
Director of Public Works  
County Engineer  
Oconee County  
15022 Wells Highway  
Seneca, South Carolina 29678

Re: Road Project – Additional Services (Stone Pond Subdivision)

Dear Mr. Kelly:

Davis & Floyd, Inc. is pleased to provide this proposal for additional engineering services for the subject project. We understand that the ultimate goal of the project is to improve roads in Stone Pond Subdivision to meet Oconee County public road standards, with the exception of Devonhurst Drive. Devonhurst Drive will be improved, but not to the extent of meeting Oconee County standards and will be maintained by others at the conclusion of the project. Our understanding of the additional scope of services required for this project is outlined below and is based upon our summary letter dated November 11, 2013 which outlined numerous existing deficiencies within the subdivision when compared to the Oconee County ordinance. If our understanding of the scope is inconsistent with yours please inform us as soon as practical so that we may enter into discussion to ensure we provide all services required.

The scope of services required for this project will include the following:

## TASK ONE: PLAN EXHIBITS AND PUBLIC HEARING

This task will include the development of no more than four plan view exhibits showing the worst case grading scenario which will be required to improve the roads to meet county road ordinance. The plan view will show the limits of the back slope and impact on the individual lots. Our efforts will also include modeling of the worst case roadway scenarios at two intersections and two cul de sacs. We will print the final exhibits in color and mount to foam boards for display at a public meeting. A Davis & Floyd representative will attend a public hearing to review the exhibits and explain the impacts on the properties due to the proposed development. (\$16,520.00)

## TASK TWO: COST ESTIMATING

This task will include the development of an opinion of probable construction costs once the modeling is completed and will be prepared and presented as part of the public hearing. The cost estimate will include the development cost to grade the roads onto private property as an option and also include the construction of retaining walls at the right of way line so that no construction activities will take place on private property. This will provide the county and homeowners association cost information for the construction so that an educated decision can be made to proceed with moving forward with the project. (\$4,900.00)

## TASK THREE: UPDATE AND FINALIZE PLANS

Based on our initial design services, we documented numerous road and drainage conditions which are not in compliance with the Oconee County Road Ordinance. These noncompliant conditions include pipes not constructed of RCP and too small, road slopes which exceed 12%, road splits which need to be eliminated, cul de sacs with inadequate radius, substandard road sections,

1319 Highway 72/221, East Greenwood, SC 29649

0. (864) 229-5211 F. (864) 229-7844

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inadequate road widths, inadequate intersections and improper horizontal alignments. Our current plans address the pipe sizing, road splits, road thickness and width. Being mindful of the project budget and gaining a better understanding of the development impact to bring the subdivision into compliance with the road ordinance, we summarized our findings in a letter to the county dated November 11, 2013. The most impactful construction required to meet the subdivision ordinance will be to reduce all road slopes to 12% maximum and flatten out the intersections. This effort will require the redesign of the roads and intersections with additional cuts from 2' to 12' in depth and fill up to 5' in order to meet ordinance. Our plans will indicate the limits of excavation which will extend into each lot impacted by this construction. Our plans will also increase the cul de sac radius from their current condition to 40'. Additional plans will include more detailed driveway tie-ins and construction sequencing to determine home accessibility throughout the course of construction. (\$38,160.00)

#### TASK FOUR: PERMITTING

It came to our attention after commencement of our design efforts that a land disturbance construction permit was never issued for the original construction of this project. This will require additional efforts on our part to coordinate and permit this project with South Carolina Department of Health and Environmental Control. We anticipate that we will be required to analyze the entire development before any construction took place and compare predevelopment versus post development stormwater runoff. This will also require pond calculations to determine its capacity to provide required detention. Based on our previous investigations, the existing dam is experiencing seepage and is heavily vegetated on the back slope leading to our recommendation the pond be converted from a wet pond to a dry pond. (\$10,020.00)

#### TASK FIVE: UTILITY COORDINATION

This task will include additional coordination with the utility providers due to the more intensive utility relocation work which will be required to accommodate the modified road construction and back slopes. (\$4,500.00)

#### TASK SIX: PROJECT SPECIFICATIONS

This task will include developing both technical and front end specifications necessary based on the proposed improvements and may include earthwork, paving, storm drainage, demolition, clearing and grubbing. The front end specifications will include general conditions, bid forms, bond requirements and other sections as coordinated with Oconee County. (\$4,090.00)

#### TASK SEVEN: COMMUNITY MEETINGS

This task will include our attendance at up to two meetings during the final stages of plan development in support of the county in presenting the proposed improvements to the homeowners association. These meetings will take place in Oconee County. We will provide drawings at these meetings showing impacts to each property to accommodate the proposed roadway improvements. (\$6,030.00)

#### TASK EIGHT: PROJECT BIDDING

This task will include advertising the project, submitting bid documents to interested general contractors, conducting a prebid conference, addressing questions during the bid process, producing addendums as necessary, conducting a bid opening and submitting to the county certified bid tabulation. (\$7,305.00)

#### TASK NINE: CONSTRUCTION ADMINISTRATION

This task will include conducting a preconstruction conference with the selected bidder to review the contract requirements including erosion control requirements. We will also review and approve

change order requests, Request for Information and pay requests. Upon completion of construction, we will provide a Certified Final Project Cost for Special Purpose Tax District Collection. (\$7,680.00)

**TASK TEN: REPLACE PROPERTY CORNERS**

Research public records and obtain copies of available plats. Perform a detailed search for all road front property corners prior to construction. Property corners that are found prior to construction and destroyed during construction will be set in the same location as they were found. Road front property corners that are not found prior to construction will be set based on adjoining front and rear property corners. (\$14,150.00)

**TASK ELEVEN: AS-BUILT SURVEY**

The as-built will include survey of the newly constructed road including locations of driveways, mailboxes, pipes and any other features that may be within the right of way. The resulting as-built plan will show all items surveyed with periodic measurements of the pavement width and invert elevations of storm drain pipes. (\$7,700.00)

**TASK TWELVE: FULL TIME CONSTRUCTION SERVICES**

This task will include providing full time construction and inspection services using an SCDOT certified senior inspector over a forty-eight week, forty hour per week construction schedule. We will monitor the contractor's daily activities for compliance with project specifications and provide accurate and timely documentation of these activities. We will monitor all construction activities including demolition, pavement repairs, culvert pipe installation, road construction, grading, pavement surface overlay and concrete work as may be required.

This task will also include providing a CEPSCI certified inspector to provide the mandatory erosion control inspections required by the DHEC permit specifically to inspect the installation, condition and maintenance of the installed erosion control features. Each visit will be documented by an inspection report noting the overall condition of the site, deficient items and corrective measures. Any deficiencies will be noted onsite with the contractor so that needed repairs can be implemented prior to the next week's erosion control inspection. (\$192,000.00)

Reimbursable expenses include mileage, subsistence and printing cost associated with our design efforts. These expenses are shown on the individual spreadsheets and will be invoiced separately from our survey, design and construction administration fees. The total not to exceed amount for these additional services for the project including reimbursable expenses is \$318,865.00.

See attached cost spreadsheet for hourly estimate.


If we are authorized to commence with our services on or before December 1, 2014, the following would be the approximate project schedule:

<b>TASK</b>	<b>START</b>	<b>END</b>
1	12/01/14	01/30/15
2	1/19/15	1/30/15
3	2/1/15	4/24/15
4	4/27/15	5/29/15

5	4/1/15	4/24/15
6	5/1/15	5/29/16
7	2/1/15	4/24/15
8	6/1/15	6/30/15
9	7/1/15	6/30/16
10	7/1/16	7/31/16
11	7/1/16	7/31/16
12	7/1/15	6/30/16

Davis & Floyd, Inc. appreciates the opportunity to provide this proposal and looks forward to working with Oconee County on this project. The procurement of our services will be according to the Professional Services Agreement dated March 21, 2012 titled Category C Roadway and Bridge Services. We are ready to commence with our design services immediately. Please do not hesitate to call if you have any questions or comments.

Very truly yours,  
DAVIS & FLOYD



Brent P. Robertson, PE  
Vice President

Attachments: Engineering Cost Estimate for Stone Pond Subdivision



CLIENT: **Oconee County**  
 PROJECT: **Stone Pond Subdivision-Revised Design Efforts**

D&F JN: **110.00**  
 CALC BY: **BPR**  
 DATE: **11/13/14**

Scope of Engineering Services:

Task		
1 Exhibits and Public Meeting		9 Construction Administration
2 Cost Estimating		10 Replace Property Corners
3 Update and Finalize Plans		11 As Built Survey
4 Permitting		12 Full Time Inspection Services
5 Utility Coordination		13
6 Project Specifications		14
7 Community Meetings		
8 Project Bidding		

Engineering Cost Estimate

Task	Principal	Proj. Mng.	Engr.	Engr. Intern	Sr. Design	Survey Crew	Sr. Inspector	Designer	Clerical
1	8		24		120				
2	4	8	16	16					
3		96	240						
4		12	80						
5		24	12						
6	4	18							16
7		18	24					12	
8	6	22	13						32
9	6	32	22						
10		40				70			
11		4				40		24	
12							1920		
13									
14									
15									
16									
Total	28	274	431	16	120	110	1920	36	48

Principal	28	@		\$175.00	/ hour =	\$ 4,900.00
Project Manager	274	@		\$135.00	/ hour =	\$ 36,990.00
Engineer	431	@		\$105.00	/ hour =	\$ 45,255.00
Engineer Intern	16	@		\$ 90.00	/ hour =	\$ 1,440.00
Senior Designer	120	@		\$105.00	/ hour =	\$ 12,600.00
Survey Crew Chief	110	@		\$ 70.00	/ hour =	\$ 7,700.00
Survey Field Technician	110	@		\$ 55.00	/ hour =	\$ 6,050.00
Senior Inspector	1920	@		\$100.00	/ hour =	\$ 192,000.00
Designer	36	@		\$ 90.00	/ hour =	\$ 3,240.00
Clerical	48	@		\$ 60.00	/ hour =	\$ 2,880.00

In-House Labor Sub Total = \$ 313,055.00  
 Sub-contracted work, Lump Sum =  
 Total Labor = \$ 313,055.00  
 Expenses = \$ 5,810.00  
 Grand Total = \$ 318,865.00

**PROCUREMENT - AGENDA ITEM SUMMARY**  
OCONEE COUNTY, SC

COUNCIL MEETING DATE: November 18, 2014

**ITEM TITLE:**

Procurement #: **RFP 14-15** Title: **Road Assessment Services** Department: **Roads & Bridges** Amount: **\$127,853.66**

**FINANCIAL IMPACT:**

Procurement was approved by Council in Fiscal Year 14-15 budget process in the Road Maintenance Fee Fund.

Budget: \$ 155,562

Project Cost: \$ 127,854

Balance: \$ 28,108

Finance Approval:  11/7/14

**BACKGROUND DESCRIPTION:**

RFP 14-05 was issued on September 4, 2014, to seek qualified firms to perform the following services: collecting asset inventory data of the length and nominal width of all County maintained roads, imaging of the entire County road system, assessment of pavement conditions, and developing a Pavement Condition Index score for all County maintained roads. This information will be used by County staff and administration to determine how best to maintain and extend the life of the County's roadway assets and insure that available funding is optimized and road maintenance is performed at optimal times.


Thirteen firms were notified of this RFP and four proposals were received on October 2, 2014. An Evaluation Committee consisting of Mack Kelly, County Engineer and Director of Public Works, Kyle Reid Assistant Roads & Bridges Manager, Linda Shugart, Assessor, Lisa Simmering, County GIS Department and Matthew Anspach, County Planner reviewed and scored the proposals and recommended two firms to continue on to the Interview Round. Interviews were held on October 30, 2014 and Transmap Corporation, of Upper Arlington, Ohio, was recommended for award.

**ATTACHMENT(S):**

1. Scoring Summary
2. Transmap Pricing

**STAFF RECOMMENDATION :**

It is the staff's recommendation that Council approve the award of RFP 14-05, Road Assessment Services, to Transmap Corporation of Upper Arlington, OH in the amount of \$127,853.66.

Submitted or Prepared By:   
Robyn Courtright, Procurement Director

Approved for Submittal to Council: \_\_\_\_\_

T. Scott Moulder, County Administrator

*Council has directed that they receive their agenda packages a week prior to each Council meeting, therefore, Agenda Items Summaries must be submitted to the Administrator for his review/approval no later than 12 days prior to each Council meeting. It is the Department Head / Elected Officials responsibility to ensure that all approvals are obtained prior to submission to the Administrator for inclusion on an agenda.*

*A calendar with due dates marked may be obtained from the Clerk to Council.*

<b>ROUND 1 - PROPOSALS SUBMITTED FOR RFP 14-05</b>
--

Bidder	Cartograph	Data Transfer Systems	MDS Technologies	Transmap
	Dubuque, IA	Orlando, FL	Park Ridge, IL	Upper Arlington, OH
Total Score	1895	2128.75	1843.75	2258.75
Average Score	379	425.75	328.75	451.75
RANKING	3	2	4	1

<b>INTERVIEWS - SCORING FOR RFP 14-05</b>
---

Bidder	Data Transfer Systems	Transmap
RANKING	Second	First

Coconino County, AZ  
Contract Pricing

1) Pavement Condition

Task	Description	Comments	Transmap Units	Transmap Price	Total
1a	On-Sight™ Raw Data Collection (includes OAR) (units = centerline miles)	Raw roadway data and image capture, 100-degree images view of all roadways (500m x 1000) dedicated pavement, curbs and grade-based lines (100% roadway coverage)	657	\$91.90	\$60,398.30
1b	On-Sight™ Raw Data Collection (Additional Assessor Camera) (units = centerline miles)	Transmap will add a fourth camera at a particular view of the right side of the vehicle to assist in the collection of faults of markings and potholes	677	\$13.45	\$9,108.75
1c	Advanced Inspection Processing - PostProcessor (units = sample pairs)	Transmap uses ASTM 0501 compliant lasers for routing and ride quality data - we will process and deliver the data as 2d/3d profiles and average for a total of 100 government centerline miles	1	\$3,995.00	\$3,995.00
1d	Network Setup and Review (units = hours)	Transmap will review the County's centerline file and set up the necessary network for loading into MICROPAVER. This includes any existing data from the County that needs to be incorporated into the pavement management system.	30	\$49.00	\$1,470.00
1e	Pavement Inspection (units = sample) (Recommended 500 samples)	Detailed surface distress analysis using Transmap's Pavement 2.0 approach. Transmap uses ASTM 0613 compliant methods - Recommended 500 sample analysis. Includes automatic collection using a bunch of 400 lasers, 30/30 images and field photos, pavement width included. All sample area (price includes field view photos). Unpaved roads were removed from the analysis of samples.	6,603	\$15.36	\$101,426.72
1f	MICROPAVER load (units = 1 hour/30 min)	Formatting pavement sample data and exporting file for MicroPAVER. MicroPAVER user support - this includes County owned equipment	1	\$2,100.00	\$2,100.00
1g	GIS Integration (units = hours)	Transmap will take all PAV data to the County's centerline file. If any other GIS work is deemed to be done, the hours can be provided.	11	\$90.00	\$990.00
1h	Pavement Management Process Definition "Road Care" (in 100 ft per day)	Transmap will meet with the County to review the proposed reclassification activities, analyze procedures, and collect any existing information on roadways (ADT data, roadblock data, maintenance issues, etc.)	73	\$1,750.00	\$1,287.50
1i	Pavement Reporting (units = hours)	Transmap will put together tabular and GIS map data to support the County's pavement maintenance pavement reporting. Roadblock units with actual dollar amounts per roadblock.	44	\$125.00	\$5,500.00
1j	On-Site MicroPAVER Training (units = days) (expenses included)	Transmap will provide on-site training for up to five County personnel on MICROPAVER training.	3	\$2,000.00	\$6,000.00
1k	Transmap Project Management (units = hours)	Estimated minimum hours - if the County needs more hours based on the amount of assistance from Transmap, standard rates apply.	92	\$49.00	\$4,508.00
1l	Analysis Server - Web-based Image Viewer (free access for 6 months after project completion)	Transmap will set up the County to view all collected images in a web-based image viewer. PCI reports, sample locations, distress data, orthorectification, and GIS layer map layer will be placed in ArcGIS Online.	1	\$0.00	
				<b>Subtotal</b>	<b>\$128,552.65</b>
				<b>Project Success Fee</b>	<b>\$1,000.00</b>
				<b>Total Cost</b>	<b>\$127,552.65</b>



# Boards & Commissions

Boards & Commissions	State / OC Code Reference	Reps [DX-AI Large]	Co-Terminus	Term Limits	4 Year Term	Meeting Date to Appoint	Paul Corbett	Wayne McCall	Paul Cain	Joel Thrift	Reg Dexter		
							2010-2014	2013-2016	2010-2014	2013-2016	2013-2016	2010-2014	2013-2016
							District I	District II	District III	District IV	District V	At Large	At Large
Aeronautics Commission	2-262	5 - 2	YES	2X	YES	Jan - June 2013	Randy Renz [1]	David Bryant [1]	Edward Perry [1]	Dan Schmeidt [2]	Ronald Chiles [1]	Thomas Luke [2]	Michael Gray [<1]
Arts & Historical Commission	2-321	5 - 2	YES	2X	YES	Jan - June 2013	VACANT	Luther Lyle [2]	Mariam Nooral [<1]	Barbara Waters [2]	H. Richardson [2]	Bess Ciupak [1]	Jean Dobson [2]
Board of Zoning Appeals	38-6-1	5 - 2	YES	2X	YES	Jan - June 2013	Allen Medford [1]	Sammy Lee [2]	Gary Littlefield [1]	Marby McKee [<2]	Dick Hughes [2]	Berry Nichols [1]	Paul Reckert [2]
Building Codes Appeal Board		5 - 0	YES	2X	YES	Jan - June 2013	Roger Mize [2]	Matt Rochester [1]	Bob DuBose [1]	Mike Willmon [2]	Harry Tollison [2]		
Conservation Bank Board	2-381	Appointed by Category		2X	YES	Jan - June 2013	Shea Airey [1]	Andy Lee [2]	VACANT	Marvin Prater [2]	Frank Ables [1]	Richard Cain [1]	Glenn Buddin [1]
Scenic Highway Committee	26-151	0 - 2	YES	2X	YES	Jan - June 2013						Allen D. Boggs [1]	Staley Powell [1]
Library Board	4-9-35 / 18-1	0 - 9	YES	2X	YES	Jan - June 2013	Daniel Day [2], Ellis Hughes [2], B. Hetherington [1], H. McPheters [1], A. Champion [1], VACANT				William Caster [1], Maria Jacobson [1], Marie McMahan [1]		
PRT Commission (members up for reappointment due to initial stagger)	6-4-25 2-381	Appointed by Industry		2X	YES	June 2013	Brian Groer [2], Rosemary Bailes [2], JoAnne Blake [2]			Becky Wise [1], Rick Lacey [1], David Lavere [1], Mike Wallace [1]			
Planning Commission	6-29-310 32-4	5 - 2	YES	N/A	YES	February 2013	Andrea Heller	C. W. Richards	William Gilster	Bud Childress	Ryan Honan	Gwen McPhall	John Lyle
Behavioral Health Services Commission	2-291	0 - 7	YES	2X	3 yr.	June 2014	Steve Jenkins [1], Harold Airey [1], Louie Holleman [1], Wanda Long [1], Priscile Taylor [1], Joan Black [1], Jere DuBois [1]						
Capital Project Advisory Committee	2-391	OC, PC, Infra 2 @ Lg.	NO	3X	1 yr.	May 2014	Council Representative VACANT, Planning Commission GMcPhall [1], Infrastructure Advisory Representative Winchester [1]					Randy Abbott [1]	VACANT
Infrastructure Advisory Commission	34-1	N/A	NO	N/A	NO	January	Council Representative Appointed Annually						
ACOG BOD				N/A	NO	JAN 2013	Council Rep. CC CHAIR or designee [yearly], 2 yr terms Citizen Rep: Bob Winchester, Minority Rep: Bennie Cunningham						
Worklink Board						N/A	Worklink contacts Council w/ recommendations when seats open						

[#] - denotes term. [K] denotes a member who has served one term and less than one half of an additional term making them eligible for one additional appointment.  
 [SHADING = reappointment requested - questionnaire on file] Denotes individual who DOES NOT WISH TO BE REAPPOINTED  
 Bold Italic TEXT denotes member ineligible for reappointment - having served or will complete serving max # of terms at the end of their current term.



# OCONEE COUNTY BOARD / COMMISSION / COMMITTEE CANDIDATE LISTING

	DX	AT LARGE	Reappoint Request	AERONAUTICS	PUBLIC SAFETY	REGULATORY	PLANNING	EDUCATION	TOURISM & REC.	Questionnaire Received Date
Faiola, John A.	1								x	July 2014
Kisker, Brad	1						x			July 2014
Lockhart, Raymond	1					x	x		x	July 2014
McMahan, Marie	1		Yes					x		September 2014
Renz, Randy	1		Yes	x						October 2014
Smith, George S.	1			x		x	x			November 2014
Nichols, Berry	2	Yes	Yes				BZA			November 2014
Gäster, William A.	3		Yes				PLAN			July 2014
Owensby, David	3						x			October 2014
McPhail, Gwen	4	Yes	Yes				PLAN			July 2014
Pearson, Frankie	4				x		x		x	June 2014
Blair, Gene	5	Yes		x		x	x		x	August 2014
Caster, William	5		Yes					x		September 2014
Jimenez, Jannie	5						x	x	x	December 2013
Walker, William	5						x			July 2014

*Questionnaires are maintained on file for one year then removed from consideration unless updated by candidate.*

### Areas of Interest (please check one or more)

### Board/Commissions Applicable to Interests

Aeronautics	Aeronautics Commission
Public Safety, Health & Welfare	Anderson-Owens Behavioral Health Services Commission Emergency Services Commission
Regulatory	Building Codes Appeal Board Parks, Recreation & Tourism Commission Board of Zoning Appeals
Planning Activities	Appalachian Council of Governments Board of Directors Board of Zoning Appeals Capital Project Advisory Committee Conservation Bank Board Economic Development Commission Planning Commission Scenic Highway Committee
Education	Arts & Historical Commission Library Board
Tourism & Recreation	Arts & Historical Commission Parks, Recreation & Tourism Commission Scenic Highway Committee

# NON AGENDA ITEMS



## Public Comment

SIGN IN SHEET

November 18, 2014

6:00 PM

*Comment regarding these issues will be heard at the end of the meeting.*

Council will hear public comment during this portion of the meeting for Non-Agenda Items. Please Be Advised: Combined the two Public Comment Sessions at this meeting are limited to a total of 40 minutes, 4 minutes per person.

Please be advised that citizens not utilizing their full four [4] minutes may not "donate" their remaining time to another speaker. As stated above, each speaker is restricted to a maximum of four [4] minutes.

**Citizens failing to PRINT or list the **NON AGENDA** item they wish to address will not be called upon during this portion of the meeting.**

	FULL NAME	NON AGENDA ISSUE
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		

Everyone speaking before Council will be required to do so in a civil manner. Council will not tolerate personal attacks on individual council members, county staff or any person or group. Racial slurs will not be permitted. Council's number one priority is to conduct business for the citizens of this county. All citizens who wish to address Council and all Boards and Commission appointed by Council should do so in an appropriate manner.

**NOTE:** Non Agenda Item matters can be addressed except for those which, due to law or proper protocol, would be inappropriate for public meetings of Council, such as, but not limited to, personal attacks on individual council members, partisan political activity and/or comments.



Oconee County  
Council Office



T. Scott Moulder  
Administrator

Oconee County  
Administrative Offices  
415 South Pine Street  
Walhalla, SC 29691

Phone: 864 718 1023  
Fax: 864 718 1021

E-mail:  
[tc.moulder@occonee.org](mailto:tc.moulder@occonee.org)

Paul Corbell  
Vice Chairman  
District I

Wayne McCall  
District II

Archie Barron  
District III

Joel Thrift  
District IV  
Chairman

Reginald T. Dexter  
District V

.....LEGAL AD.....

**PLEASE ADVERTISE IN THE NEXT ISSUE  
OF YOUR NEWSPAPER**

The Oconee County Council will hold a Public Hearing for Ordinance Ordinance 2014-23 "AN ORDINANCE TO AMEND OCONEE COUNTY ORDINANCE 2014-02, THE BUDGET ORDINANCE FOR THE SCHOOL DISTRICT OF OCONEE COUNTY (the "School District") FOR THE FISCAL YEAR BEGINNING JULY 1ST, 2014 AND ENDING JUNE 30TH, 2015, IN CERTAIN LIMITED REGARDS AND PARTICULARS, ONLY, SO AS TO REFLECT THE USE OF ADDITIONAL TAX REVENUE AND ADDITIONAL DELINQUENT TAX COLLECTIONS, INCLUDING PENALTIES AND INTEREST, AND DECREASE THE USE OF FUND BALANCE, ALL ON THE REVENUE SIDE OF THE BUDGET; AND OTHER MATTERS RELATED THERETO" and Ordinance 2014-24 "AN ORDINANCE AUTHORIZING AND DIRECTING THE PROVISION OF COUNTY-FUNDED LEGAL REPRESENTATION, DEFENSE, AND LIMITED INDEMNIFICATION FOR OCONEE COUNTY EMPLOYEES IN CERTAIN LIMITED CIRCUMSTANCES INVOLVING THE DIRECTION AND PERFORMANCE OF OFFICIAL DUTIES; AND OTHER MATTERS RELATED THERETO" on Tuesday, November 18, 2014 at 6:00 p.m. in Council Chambers, Oconee County Administrative Offices, 415 S. Pine Street, Walhalla, SC.



## Beth Hulse

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**From:** Beth Hulse  
**Sent:** Tuesday, October 14, 2014 11:16 AM  
**To:** Beth Hulse; classadmgr@upstatetoday.com  
**Subject:** Public Hearings: 2014-23, 2014-24 - 11-18-14  
**Attachments:** 101414 - PH 2014-23, 2014-24 11-18-2014.doc

Please run at your earliest convenience.  
Thanks.

*Elizabeth G. Hulse, CCC*  
Clerk to Council  
Oconee County Administrative Offices  
415 South Pine Street  
Walhalla, SC 29691  
864-718-1023  
864-718-1024 [fax]  
[bhulse@oconeesc.com](mailto:bhulse@oconeesc.com)  
[www.oconeesc.com/council](http://www.oconeesc.com/council)